

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. G900090**

<b>ALEXANDRIA BALES, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>ARKANSAS STATE UNIVERSITY, EMPLOYER</b>	<b>RESPONDENT</b>
<b>PUBLIC EMPLOYEE CLAIMS DIVISION, INSURANCE CARRIER/TPA</b>	<b>RESPONDENT</b>

**OPINION FILED JULY 27, 2021**

**Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas.**

**Claimant is represented by her attorney, Frederick “Rick” S. Spencer, Attorney at Law, Mountain Home, Arkansas.**

**Respondents are represented by their attorney, Charles H. McLemore, Attorney at Law, Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on July 21, 2021, in Mountain Home, Arkansas, on Respondents’ Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers’ Compensation Act. The claimant was represented by Frederick “Rick” Spencer, who appeared for the hearing, but the claimant failed to appear. The claimant had emailed the Commission on May 28, 2021, stating, “I am emailing you today to confirm that I will not be attending the hearing for the motion to dismiss. I do not wish to proceed further with this case. Thank you for your time.” Mr. Spencer also stated at the time of the hearing that it was his position as an officer of the court to be present for the hearing since there was no Order allowing him to withdraw, but that his client had notified him that that she no longer desired for him to pursue the matter. The claimant had alleged in the Form AR-C that was filed on or about April 11, 2019, that at the time of the injury, she was working as a part-time

lab assistant and had dropped a fifty (50)-pound spool of welding wire and injured her left big toe. The respondents filed the First Report of Injury on January 7, 2019, and a Form AR-2 on January 9, 2019, accepting the claim as compensable. In the past six (6) months, the claimant has not requested a hearing on her claim and no action to pursue the claim has been taken for over six (6) months. This lack of action led to a filing of a Motion to Dismiss on May 3, 2021.

An appropriate notice setting this matter for a hearing for a Motion to Dismiss was provided to the claimant by both certified and regular mail. A hearing was set for July 21, 2021, in regard to the Motion to Dismiss. The claimant did not file a response and failed to appear on the hearing date in Mountain Home, Arkansas, although her attorney was present. At the time of the hearing, Charles H. McLemore appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and specifically the e-mail from the claimant, and having an opportunity to hear the statements of the attorney for the respondents, there is no alternative but to find that this matter should be dismissed for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

**ORDER**

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

**IT IS SO ORDERED.**

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**JAMES D. KENNEDY**  
**ADMINISTRATIVE LAW JUDGE**