

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H302925 and H302926**

<b>TONYA BANKS, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>B D E INVESTMENTS, LLC, EMPLOYER</b>	<b>RESPONDENT</b>
<b>ACCIDENT FUND GENERAL INS. CO, CARRIER/TPA</b>	<b>RESPONDENT</b>

**OPINION FILED FEBRUARY 13, 2024**

**Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas on February 13, 2024.**

**Claimant is *pro se* and failed to appear.**

**Respondents are represented by Ms. Karen H. McKinney, Attorney-at-Law of Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on February 13, 2024, in Little Rock, Arkansas on respondents' Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was *pro se* and failed to appear for the hearing. The claimant had filed multiple Form AR-C's in H302925 with the initial Form AR-C filing marked on or about on May 5, 2023. The First Report of Injury in regard to this claim was filed on May 10, 2023, providing that the claimant had been run into and she, "hit machinery injuring abdomen and pelvic area." The Form AR-2 filed on May 17, 2023, provided that the claim was accepted as medical only and the claimant did not miss any work.

In regard to the claim filed as H302926, the claimant contended that she injured multiple body parts including her shoulder. The First Report of Injury was filed on May 17, 2021, stating that the claimant was injured while driving a vehicle, and the Form AR-

2 filed on the same date, denied the claim. The claimant was originally represented by Mr. Mark Alan Peoples on both claims and he was allowed to withdraw by an Order from the Full Commission dated August 25, 2023. A Motion to Dismiss was filed on November 21, 2023, requesting that the matter be dismissed for failure to prosecute pursuant to Commission Rule 099.13 and Ark. Code Ann. §11-9-702. The claimant has not requested a hearing to date and more than six (6) months have passed since the filing of the original claim.

Appropriate notice was provided to the claimant notifying her that a hearing on the Motion to Dismiss was set for February 13, 2024, in Little Rock, Arkansas. The claimant did not file a response and failed to appear on the hearing date. At the time of the hearing, Karen H. McKinney 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 having an opportunity to hear the statements of the attorney for the respondent, I find that this matter should be dismissed without prejudice, 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 these claims in their entirety, without prejudice, for failure to prosecute.

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JAMES D. KENNEDY  
ADMINISTRATIVE LAW JUDGE