

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC FILE № H405865**

ROBERT E. BARNES, EMPLOYEE	CLAIMANT
W.E. PENDER & SONS, INC., EMPLOYER	RESPONDENT
EMCASCO INS. CO./ EMPLOYERS MUTUAL CASUALTY CO., CARRIER/TPA	RESPONDENT

OPINION FILED 14 NOVEMBER 2025

Heard before Arkansas Workers' Compensation Commission ("the Commission")
Administrative Law Judge JayO. Howe on 5 November 2025 in Little Rock, Arkansas.

The *pro se* claimant failed to appear.

Newkirk & Jones, Mr. Rick Behring, Jr., appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 5 November 2025. This case relates to an alleged workplace injury occurring on 14 December 2023. The record of the hearing consists of the transcript; Respondents' Exhibit № 1, which consisted of 14 pages of documents and pleadings in support of their motion; and Commission's Exhibit № 1, three pages that included a Form AR-C filed on 17 January 2025 and two Postal Service delivery receipts from Commission correspondence with the claimant.

On 17 January 2025, the claimant, though his then-counsel, filed a Form AR-C. Then, on 29 July 2025, Claimant's counsel requested leave to withdraw as the claimant's attorney. In an Order dated 27 August 2025, the Full Commission granted that request.

The respondents later requested that this claim be dismissed under Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)) and/or Ark. Code Ann. § 11-9-702. They note that the claimant had not requested a hearing on an issue ripe for litigation.

Notice of the respondents' motion was sent to the claimant, consistent with Commission practices, via First Class Mail and Certified Mail. Notice of a hearing on the respondents' motion was sent in the same manner. The claimant did not accept the certified letter with the notice of the respondents' motion. But a delivery receipt bearing the claimant's signature confirms that he received the 13 October 2025 Notice of Hearing letter on 18 October 2025. He did not exercise his right to appear at the hearing to resist the respondents' motion.

FINDINDGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Commission has jurisdiction over this matter.
2. The parties were provided with reasonable notice of the Motion to Dismiss and the hearing on the motion.
3. The evidence preponderates that the claimant has failed to prosecute his claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted; this claim is dismissed without prejudice under 11 C.A.R. § 25-110(d).

DISCUSSION

The respondents appeared on 5 November 2025 and presented their motion. As argued by the respondents at the hearing, Commission Rule 099.13 (now 11 C.A.R. § 25-110(d)) provides for a dismissal for failure to prosecute an action upon application by either party and reasonable notice. The claimant did not file a response to the motion or appear at the hearing to argue against the dismissal of his claim.

The claimant filed his Form AR-C on 13 January 2025. Since that time, no filings have been made by the claimant save for his attorney's request to withdraw from the case, which was granted by the Full Commission without any objection from the claimant. No filings have been made by the claimant since the entry of the Order granting the withdrawal. Likewise, no objection was filed to the respondents' motion to dismiss this claim. Further, the claimant did not appear at the hearing to object to the dismissal of his claim.

The record does not reflect a request for a hearing ever being filed in this claim. Based on the evidence presented, a dismissal without prejudice is appropriate.

ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE