

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H304937**

**BRANDON J. BIDDLE,
EMPLOYEE**

CLAIMANT

**SEQUIN MOREAU NAPA COOPERAGE,
EMPLOYER**

RESPONDENT

**TRAVELERS INDEMNITY CO. OF CONNECTICUT/
THE TRAVELERS CO.
INSURANCE CARRIER/TPA**

RESPONDENT

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED MAY 7, 2024**

Hearing conducted on Friday, May 3, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Hot Springs, Garland County, Arkansas.

The claimant, Mr. Brandon J. Biddle, pro se, of Malvern, Hot Spring County, Arkansas, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Guy Alton Wade, Friday, Eldredge & Clark, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Friday, May 3, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Replacement).

The respondents filed a letter motion to dismiss without prejudice (MTD) with the Commission on both January 3, 2024, and on March 12, 2024, requesting this claim be dismissed without prejudice for lack of prosecution. Consistent with the applicable Arkansas law, thereafter the Commission mailed a copy of both the respondents' MTD and the subject hearing notice to the claimant via the United States Postal Service (USPS), Certified Mail, Return Receipt Requested, to his last known address of record with the Commission, which the claimant received on March

14, 2024, and March 29, 2024, respectively. (Commission Exhibit 1; Respondents' Exhibit 1). Thereafter, the claimant failed and/or refused to respond in any way to either the Commission or to the respondents; and she failed and/or refused to appear at the subject hearing. The claimant never objected in any way to the respondents' MTD. The claimant had at one time been represented by counsel, Ms. Laura Beth York, of the Rainwater, Holt & Sexton law firm, but was pro se at the time of the hearing date. (RX1; Reporters' Hearing Transcript)

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2022 Lexis Repl.), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' MTD. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively demonstrates the claimant has both failed and/or refused to prosecute his claim, and he has failed and/or refused to request a hearing within the last six (6) months.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After the Commission mailed due and legal notice of both the respondents' letter MTD as well as a copy of the notice for the subject hearing to the claimant's last known address of record with the Commission, the claimant failed and/or refused to respond to the MTD in any way; or to object to the subject MTD; or to request a hearing on the merits of his claim.

3. Moreover, the claimant failed and/or refused to appear at the subject hearing and, therefore, has waived his right to a hearing on the MTD.
4. The claimant has failed to request a hearing on the merits of his claim within the last six (6) months.
5. Therefore, the respondents' aforementioned letter MTD(s) filed with the Commission should be and hereby is(are) GRANTED.
6. This claim is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b), and Commission Rule 099.13.

This opinion and order shall *not* be construed to prohibit the claimant, his attorney, any attorney he may retain in the future, or anyone acting legally and on his behalf from refiling this claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

The respondents shall pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp