

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. G800691**

**JEAN BISBEE,
EMPLOYEE**

CLAIMANT

**CITY OF LITTLE ROCK, SELF-INSURED
EMPLOYER/CARRIER**

RESPONDENT NO. 1

RISK MG'T RESOURCES, INC./TPA

RESPONDENT NO. 1

**STATE OF ARKANSAS, DEATH & PERMANENT
TOTAL DISABILITY TRUST FUND**

RESPONDENT NO. 2

**OPINION AND ORDER TO DISMISS WITHOUT PREJUDICE
FILED MARCH 8, 2021**

Hearing conducted on Monday, March 8, 2021, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Mr. Jean Bisbee, Maumelle, Pulaski County, Arkansas, appeared *pro se*.

Respondent No. 1 was represented by the Honorable Jarrod Parish, Worley, Wood & Parrish, P.A., Little Rock, Pulaski County, Arkansas.

Respondent No. 2, represented by the Honorable David Pake, waived its appearance at the hearing.

STATEMENT OF THE CASE

A hearing was conducted on Monday, March 8, 2021, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2020 Lexis Replacement) and Commission Rule 099.13 (2020 Lexis Replacement). On January 12, 2021, Respondent No. 1 filed a motion with the Commission requesting this claim be dismissed without prejudice for lack of prosecution.

In accordance with the applicable Arkansas law, the claimant was due and legal notice of the Respondent No. 1's motion to dismiss, as well as a copy of the hearing notice, via the United States

Postal Service (USPS), First Class Certified Mail, Return Receipt Requested. The claimant appeared at the hearing *pro se*, and advised he did not object to the dismissal of his claim without prejudice. Mr. Neil Hart had represented the claimant at the subject full hearing, but thereafter requested and received the Full Commission's leave to withdraw as the claimant's attorney of record. The claimant returned to work at the fire department/the City of Little Rock about one (1) year ago.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission's entire file in this matter.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), 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 Respondent No. 1's motion to dismiss. 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 reveals the claimant has failed and/or refused to prosecute his claim. In fact, it appears from the Commission's file and the other evidence of record that there remain no issues left to be litigated at this time.

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 having been afforded due and legal notice of Respondent No. 1's January 12, 2021, motion to dismiss without prejudice, as well as a copy of the hearing notice via USPS First Class Certified Mail, Return Receipt Requested, the claimant appeared at the hearing *pro se*. He advised on the record he had returned to work for the fire

department/City of Little Rock approximately one (1) year ago; and he does not object to the dismissal of his claim without prejudice.

3. The preponderance of the evidence of record reveals the claimant has to date failed and/or refused to prosecute his claim. In fact, it appears from the Commission's file and other relevant evidence of record there remain no further issues to be litigated in this claim.
4. Therefore, Respondent No. 1's motion to dismiss without prejudice filed January 12, 2021, is GRANTED; and this claim hereby 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 the claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

The Respondent No. 1 hereby is ordered to pay the court reporter's invoice within twenty (20) days of its receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp