

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H107712**

**EARL J. BONDS, EMPLOYEE**

**CLAIMANT**

**E.O.S., INC., EMPLOYER**

**RESPONDENT**

**ARKANSAS TRUCKING ASSOCIATION SI  
FUND/CCMSI, CARRIER/TPA**

**RESPONDENT**

**OPINION FILED MAY 9, 2022**

A hearing was held before ADMINISTRATIVE LAW JUDGE KATIE ANDERSON, in Pine Bluff, Jefferson County, Arkansas.

Claimant, Mr. Earl J. Bonds, was represented by Mr. Greg Giles, Attorney at Law, Texarkana, Arkansas. Claimant did not appear at the hearing. Mr. Giles waived his appearance.

Respondents were represented by Mr. Guy A. Wade, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was held on March 31, 2022, in the present matter pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W.3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. § 11-9-702 and Arkansas Workers' Compensation Commission Rule 099.13.

Appropriate Notice of this hearing was had on all parties to their last known address in the manner prescribed by law.

The record consists of the transcript of the March 31, 2022, hearing and the documents contained therein. The remainder of the Commission's file has also been made a part of the record. It is hereby incorporated by reference.

**DISCUSSION**

Claimant alleged that he sustained a work-related injury when his anus prolapsed on July 12, 2021, while working for the Respondent-Employer. On September 20, 2021, Claimant filed a

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Form AR-C with the Commission. Per this form, Claimant asserted an accident date of July 12, 2021, and asserted his entitlement to all workers' compensation benefits. Per the Form AR-C, Claimant described his injury as follows: "Ruptured my insides were coming out my butt. Happened on 12th trying to crank down loaded trailer in low gear and it caused my insides to come out my rectum. Doctor faxed note and 4 hours later they terminated me after paying all them truck payments and was not concerned that I called and said I was hurt. This was after they made me go ahead and haul load."

On September 22, 2021, Respondent-Insurance-Carrier filed a Form AR-2 with the Commission denying the claim and stating that there were no medical records to support a work-related injury.

On February 4, 2022, Claimant filed a Motion to Voluntary Dismiss his claim based on a review of the medical records and further discussion between Claimant and his attorney. Pursuant to a Hearing Notice dated February 11, 2022, the Commission advised the parties that the matter had been set for a hearing on Claimant's Motion for Voluntary Dismissal. Said hearing was scheduled for March 31, 2022, at 12:30 p.m., at the Federal Building (Post Office Building), Room 3611, 100 East 8th Street, Pine Bluff, Arkansas. The Hearing Notice was sent to all parties. Claimant's counsel confirmed via e-mail communication with the Commission on March 28, 2022, that Claimant had no objection to the dismissal of the claim without prejudice.

Therefore, a hearing was in fact conducted as scheduled on Claimant's Motion to Voluntarily Dismiss his claim. Respondents appeared through their attorney. Claimant's attorney waived his appearance, and Claimant did not appear at the hearing.

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Counsel for Respondents advised Claimant had voluntarily requested that his case be dismissed and stated that Respondents had no objection. Counsel also advised that Claimant filed a Form AR-C on September 20, 2021, for an injury that he alleges occurred on July 12, 2021. Since that time, Claimant had not taken any action in the matter and had not sought any type of *bona fide* hearing before the Workers' Compensation Commission since he filed the Form AR-C. As such, Counsel agreed that the claim should be dismissed, without prejudice, pursuant to Ark. Code Ann. § 11-9-702 and Commission Rule 099.13.

A review of the evidence shows that Claimant has had sufficient time to pursue his claim for workers' compensation benefits. It has been more than seven (7) months since Claimant filed a Form AR-C in this matter, and to date, Claimant has not requested a *bona fide* hearing or otherwise attempted to prosecute his claim. Hence, Claimant has not timely prosecuted his claim for workers' compensation benefits.

Therefore, after consideration of the evidence presented, I find Claimant's Motion for Voluntary Dismissal to be well supported. Furthermore, I find that pursuant to Ark. Code Ann. § 11-9-702 and Commission Rule 099.13, this claim for workers' compensation benefits should be dismissed, without prejudice, to the refiling within the applicable time period.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

On the basis of 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 Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On September 20, 2021, Claimant filed a Form AR-C with the Commission. Per this form, Claimant asserted an accident date of July 12, 2021, and asserted his entitlement to workers' compensation benefits.

3. On September 22, 2021, Respondent-Insurance-Carrier filed a Form AR-2 with the Commission denying the claim and stating that there were no medical records to support a work-related injury.
4. On February 4, 2022, Claimant filed a Motion to Voluntary Dismiss his claim based on a review of the medical records and the discussion between Claimant and his attorney.
5. More than seven (7) months have passed since Claimant filed a Form AR-C, with the Commission. However, since this time Claimant has not made a *bona fide* request for a hearing or otherwise attempted to resolve his claim for workers' compensation benefits.
6. Claimant has had ample opportunity to pursue this claim for workers' compensation benefits, but no action has been taken by Claimant in furtherance of his claim. Therefore, he has failed to timely prosecute this matter.
7. Claimant's Motion for Voluntary Dismissal is well founded.
8. Claimant's Motion for Voluntary Dismissal should be granted pursuant to Ark. Code Ann. § 11-9-702 and Commission Rule 099.13, without prejudice, to the refiling of the claim within the applicable time period.
9. Appropriate Notice of this hearing was had on all parties to their last known address in the manner prescribed by law.

**ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, this claim is hereby dismissed pursuant to Ark. Code Ann. § 11-9-702 and Commission Rule 099.13, without prejudice, to the refiling of this claim within the applicable time period.

**IT IS SO ORDERED.**

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**KATIE ANDERSON**  
**ADMINISTRATIVE LAW JUDGE**