

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H010387

REBECCA D. BOWLIN, EMPLOYEE

CLAIMANT

**JACKSONVILLE NORTH PULASKI SCHOOL
DISTRICT, EMPLOYER**

RESPONDENT

**ARKANSAS SCHOOL BOARDS ASSOCIATION/
CARRIER/TPA**

RESPONDENT

OPINION FILED MAY 4, 2022

A hearing was held before ADMINISTRATIVE LAW JUDGE KATIE ANDERSON, in Little Rock, Pulaski County, Arkansas.

Claimant, Ms. Rebecca D. Bowlin, *pro se*, failed to appear at the hearing.

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

STATEMENT OF THE CASE

A hearing was held on March 29, 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 29, 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 asserts that she injured her shoulders while working for Respondent-Employer on October 15, 2020. On December 17, 2020, Respondent-Insurance-Carrier filed a Form AR-2 with the Commission accepting the claim as compensable and paying some benefits.

On January 11, 2021, Claimant’s previous attorney filed a Form AR-C with the Commission. Per this form, Claimant asserted an accident date of October 15, 2020, and asserted her entitlement to initial workers’ compensation benefits. On the Form AR-C, Claimant indicated that she “was picking up a child on the playground and sustained injuries to her bilateral shoulders and other whole body.”

On April 26, 2021, Claimant’s previous attorney of record filed a Motion to Withdraw. The motion was granted by the Full Commission on May 19, 2021.

On February 2, 2022, the Workers’ Compensation Claims Adjuster, Melody Tipton, sent a letter asking the Commission to issue an order of dismissal due to lack of prosecution by Claimant. On February 8, 2022, the Commission sent a Notice to the Claimant, via certified mail and regular mail, advising her of Respondents’ Motion and a deadline for filing a written response. The certified letter from the Commission to the Claimant notifying her of the Motion to Dismiss was returned to sender, and there was no response from Claimant regarding this correspondence.

Pursuant to a Hearing Notice dated March 8, 2022, the Commission advised the parties that the matter had been set for a hearing on Respondents’ Motion to Dismiss for Failure to Prosecute. Said hearing was scheduled for March 29, 2022, at 10:00 a.m., at the Arkansas Workers’ Compensation Commission, 324 Spring Street, Hearing Room B, Little Rock, Arkansas. The

BOWLIN – H010387

Hearing Notice was sent via First-Class Mail and Certified Mail to Claimant's address; however, there was no response from Claimant in this regard.

Therefore, a hearing was in fact conducted as scheduled on Respondents' Motion to Dismiss for Failure to Prosecute. Respondents appeared through their attorney; however, Claimant failed to appear at the hearing.

Counsel advised that 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 she filed the Form AR-C. As such, Counsel requested that the claim be dismissed, without prejudice, pursuant to Ark. Code Ann. § 11-9-702 and our Rule 099.13.

A review of the evidence shows that Claimant has had sufficient time to pursue her claim for workers' compensation benefits. It has been more than one (1) year and three (3) 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 her claim. Hence, Claimant has failed to timely prosecute her claim for workers' compensation benefits.

Therefore, after consideration of the evidence presented, I find Respondents' motion for the dismissal of this claim to be well supported. Furthermore, I find that pursuant to Ark. Code Ann. § 11-9-702 and Commission Rule 099.13, this claim for additional benefits should be dismissed, without prejudice, to the refile 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.

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. On December 17, 2020, Respondent-Insurance-Carrier filed a Form AR-2 with the Commission accepting the claim as compensable and paying some benefits.
3. On January 11, 2021, Claimant filed a Form AR-C with the Commission seeking all workers' compensation benefits in this matter.
4. On February 2, 2022, the Workers' Compensation Claims Adjuster, Melody Tipton, sent a letter asking the Commission to issue an order of dismissal due to lack of prosecution by Claimant.
5. Approximately one (1) year and (3) three months have passed since Claimant filed a Form AR-C, with the Commission. However, since this time Claimant has failed to make a *bona fide* request for a hearing or otherwise resolve her 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 her claim, as she has failed to timely prosecute this matter.
7. Respondents' Motion to Dismiss for Failure to Prosecute is well founded.
8. Respondents' Motion to Dismiss for Failure to Prosecute 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.

BOWLIN – H010387

IT IS SO ORDERED.

**KATIE ANDERSON
ADMINISTRATIVE LAW JUDGE**