

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC CLAIM NO.: G905356**

CHARLES BRADY, Employee	CLAIMANT
ANCHOR PACKAGING, INC., Employer	RESPONDENT
HERMANN COMPANIES, INC., Carrier	RESPONDENT
CANNON COCHRAN MANAGEMENT SERVICES, TPA	RESPONDENT

OPINION AND ORDER FILED JULY 27, 2021

Hearing conducted before Administrative Law Judge Terry Don Lucy, in Craighead County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: Honorable Eric Newkirk; Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on July 23, 2021, with respect to the Respondents' Motion to Dismiss filed with the Commission on June 10, 2021. When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did he appear during the ensuing proceedings. Respondents' Exhibit No. 1 was subsequently introduced into the record without objection, and the Commission's file in this matter was deemed incorporated by reference into the record without objection for purposes of this Opinion and Order.

The Commission's file reflects that notice of the Respondents' Motion was sent to the Claimant via certified and first-class mail from the Commission dated June 14, 2021, to his last known address of 288 CR 488, Rector, Arkansas, 72461, and that notice of the hearing was likewise sent to the Claimant via certified and first-class mail from the Commission dated July 13, 2021, to the same last known address. The Commission's file reflects no response from the Claimant with respect to the Respondents' pending motion and reflects that he received notice of the hearing on July 16, 2021, by virtue of an electronic confirmation of such provided to the

Commission by the United States' Postal Service.

The Commission's file and Respondents' Exhibit No. 1 further reflect that the Claimant filed a Form AR-C in this matter on August 19, 2019 and has not requested a hearing since that date. In addition, there is no indication that the Claimant herein has responded to or otherwise objected to the Respondents' pending Motion. Finally, during the hearing the hearing, Counsel for the Respondents offered uncontradicted statements to the effect that he had been contacted by the Claimant following receipt of notice of the hearing and/or motion to dismiss and that the latter did not wish to object to such nor to otherwise pursue his pending claim.

Given the Claimant's lack of objection to the Respondents' Motion, corresponding failure to appear at the hearing held on July 23, 2021, apparent failure to request a hearing on the merits of his claim since August 19, 2019, and uncontradicted statements offered by him to Counsel for the Respondents with respect to the present proceedings, I specifically find that the Claimant has failed to prosecute his claim in a timely manner and that dismissal thereof without prejudice is warranted pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13, for lack of timely prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective July 23, 2021, and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

TERRY DON LUCY
Administrative Law Judge