

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H303023

KIMBERLY BROUGHTON, EMPLOYEE

CLAIMANT

**CONWAY COUNTY CENTER FOR EXCEPTIONAL
CHILDREN, INC., EMPLOYER**

RESPONDENT

ATA WORKERS' COMP SI TRUST, CARRIER/TPA

RESPONDENT

OPINION FILED FEBRUARY 13, 2024

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas on February 13, 2024.

Claimant is *pro se* and failed to appear.

Respondents are represented by Mr. Jarrod S. Parrish, Attorney-at-Law of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on February 13, 2024, in Little Rock, Arkansas on respondents' Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was *pro se* and failed to appear for the hearing. The claimant had filed a Form AR-C on May 10, 2023, contending that she had injured her back, left knee, and whole body. The First Report of Injury in regard to this claim was filed on May 11, 2023, providing that the claimant contended she had been sitting on the claimant's transport bus two (2) days earlier assisting clients as a rider and they were hit by another vehicle, causing the claimant to fall out of her seat. The Form AR-2 filed on May 11, 2023, provided that the claim was a medical only claim and all benefits were being paid.

The claimant was originally represented by Laura Beth York who was allowed to withdraw by an Order from the Full Commission dated May 25, 2023. A Motion to Dismiss was filed on November 13, 2023, requesting that the matter be dismissed for

failure to prosecute pursuant to Commission Rule 099.13 and Ark. Code Ann. §11-9-702. The claimant has not requested a hearing to date and more than six (6) months have passed since the filing of the original claim nor is there any record of her contacting the Commission after the date her attorney was allowed to withdraw.

Appropriate notice was provided to the claimant notifying her that a hearing on the Motion to Dismiss was set for February 13, 2024, in Little Rock, Arkansas. The claimant did not file a response and failed to appear on the hearing date. At the time of the hearing, Jarrod S. Parrish appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondent, I find that this matter should be dismissed without prejudice, for failure to prosecute pursuant to Ark. Code Ann. §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE