BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H403964

JASON BERG
EMPLOYEE **CLAIMANT**

CITY OF HORSESHOE BEND,
SELF-INSURED EMPLOYER **RESPONDENT**

ARKANSAS MUNICIPAL LEAGUE,
TPA **RESPONDENT**

OPINION FILED SEPTEMBER 16, 2026

Hearing conducted on Friday, August 28, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Batesville, Independence County, Arkansas.

The Claimant, Mr. Jason Berg, *Pro Se*, of Horseshoe Bend, Arkansas.

The Respondents were represented by Ms. Mary K. Edwards, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on April 24, 2026. A hearing on the motion was conducted on August 28, 2026, in Batesville, Arkansas. Claimant, according to Commission file is *Pro Se*, and he appeared at the hearing.

The Claimant worked for the Respondent/Employer as a golf course worker. The date for Claimant's alleged injury was on June 14, 2024. He reported his injury to Respondent/Employer on the same day. Admitted into the record was Respondents' Exhibit 1, pleadings, and correspondence, consisting of 12 pages, Commission Ex. 1, pleadings, correspondence, and U.S. Mail return receipts, consisting of 21 pages, *as discussed infra*.

The record reflects on March 19, 2025, a Form AR-C was filed with the Commission by Claimant's then-attorney, Mark Peoples, purporting that Claimant sustained multiple body injuries, including a traumatic brain injury, during the course and scope of employment. On June 20, 2024, a Form AR-1 was filed with the Commission stating that the Claimant drove a mower up a steep hill without the roll bar up and against instructions. The form does not state how the Claimant was injured. On June 28, 2024, a Form AR-2 was filed by Respondents not accepting or denying compensability. Claimant's attorney filed a motion to withdraw on January 8, 2026. The Full Commission granted the petition on February 18, 2026.

On April 24, 2026, Respondents' counsel filed a Motion to Dismiss due to Claimant's failure to prosecute his claim. The Claimant was sent, on April 28, 2026, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to his last known address. The certified motion notice was received by Claimant, per return receipt dated May 5, 2026. This notice was also sent regular U.S. Mail and did not return to the Commission. The Claimant objected to the dismissal in writing on May 15, 2026, and the motion was held in abeyance. Prehearing documents were sent to the parties on May 18, 2026. The Preliminary Notice was due June 2, 2026, and the Prehearing Questionnaire was due June 8, 2026.

The Claimant failed to return the required Prehearing documents on June 2 and again on June 8, 2026. On July 9, 2026, a certified letter was sent to Claimant making him aware that Respondent's Motion to Dismiss will no longer be held in abeyance and shall move forward to a hearing scheduled on August 28, 2026, at 11:00 am. Therefore, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on July 10,

2026. The certified notice was claimed, per return receipt dated July 27, 2026. The hearing notice sent regular First-Class mail did not return to the Commission. The hearing took place on August 28, 2026. And as mentioned before, the Claimant did show up to the hearing. During the hearing the Claimant stated several times that he agrees with the dismissal.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, 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 Commission has jurisdiction over this claim.

2. The Claimant and Respondents both had reasonable notice of the August 28, 2026, hearing.

3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under 11 CAR §25-110(d) [formerly AWCC Rule 099.13] and A.C.A. §11-9-701.

4. The Respondents' Motion to Dismiss should be granted.

5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

11 CAR §25-110(d) provides:

> Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with 11 CAR §25-110(d), the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. The certified hearing notice was claimed by Claimant, per the return postal notice. The hearing notice sent regular First-Class mail was not returned to the Commission. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

Also 11 CAR §25-110(d) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed his Form AR-C on March 19, 2025. Since then, he has failed to prosecute his claim by failing to provide the requested Prehearing documents. Moreover, during the hearing, the Claimant stated, "I have no objection to the dismissal." I take the Claimant at his word. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute his claim. Thus, Respondents' Motion to Dismiss should be granted.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, *without prejudice*.

IT IS SO ORDERED.

_____

STEVEN PORCH
Administrative Law Judge