

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H502820**

MARTIN BLOCK, EMPLOYEE	CLAIMANT
SIGNATURE AVIATION, EMPLOYER	RESPONDENT
STARR INDEMN. & LIAB. CO., CARRIER	RESPONDENT

OPINION FILED NOVEMBER 19, 2025

Hearing before Chief Administrative Law Judge O. Milton Fine II on November 18, 2025, in Little Rock, Pulaski County, Arkansas.

Claimant, *pro se*, not appearing.

Respondents represented by Mr. Rick Behring, Jr., Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on the Motion to Dismiss by Respondents. A hearing on the motion was conducted on November 18, 2025, in Jonesboro, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing. Admitted into evidence was Respondents' Exhibit 1, pleadings, correspondence and forms related to this claim, consisting of 10 numbered pages. Also, in order to address adequately this matter under Ark. Code Ann. § 11-9-705(a)(1) (Repl. 2012)(Commission must "conduct the hearing . . . in a manner which best ascertains the rights of the parties"), and without objection, I have blue-backed to the record documents from the Commission's file on the claim, consisting of nine

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pages. In accordance with *Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549, these documents have been served on the parties in conjunction with this opinion.

The record reflects the following procedural history:

Per the First Report of Injury or Illness filed on May 6, 2025, Claimant purportedly suffered an injury to one or both of his shoulders at work on April 29, 2025, while he was operating a fuel truck. According to the Form AR-2 that was filed on May 6, 2025, Respondents controverted the claim in its entirety. Respondents' counsel entered his appearance before the Commission on August 1, 2023.

In an email to Commission Legal Advisor Michael St. Clair on June 24, 2025, which bears the instant claim number on its subject line, Claimant wrote:

Mr. Michael,

Good afternoon sir. As per our phone conversation I'd [like] to appeal the decision of denial of my workers['] comp case. If you need anything further please reach out to me and I'll provide it for you.

Sincerely,

Martin Block

In response to the Legal Advisor Claimant Questionnaire received by the Commission on June 26, 2025, Claimant requested mediation. But in an email to the Commission on August 15, 2025, Respondents' counsel indicated that his clients were not interested in pursuing mediation. As a result, St. Clair informed

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the parties by email that same day that he would have the matter assigned to an administrative law judge.

The file was assigned to me on August 18, 2025. On August 21, 2025, my office sent preliminary notices and prehearing questionnaires to the parties. On September 11, 2025, my assistant, Catherine Ferguson, emailed Claimant to inform him that his completed preliminary notice and prehearing questionnaire response were overdue. He replied that same day:

Good morning Ms. Ferguson,

I'm going to have to politely pass on this as I've already been forced by [C]oncentra to pay the medical bills associated with my work injury or they were going to send it to collection. So I'm sorry to say but going forward I will not be pursuing this matter any longer. I've always thought that worker's comp insurance was to help out when an employee gets injured on the job performing a required task but I apparently stand very incorrect. I'd like to take the time to thank everyone at the Arkansas Workers['] [C]ompensation [C]ommission for their time and effort in assisting me but again I'm no longer pursuing this matter.

Sincerely,

Martin Block

Based on this, the prehearing process was ended and the file was returned to the Commission's general files.

The record reflects that nothing further took place on the claim until September 16, 2025. On that date, Respondents filed the instant motion, asking for dismissal of the claim under 11 C.A.R. § 25-110(d) (formerly AWCC R. 099.13). The file was reassigned to me on September 19, 2025; and on that

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same date, my office wrote Claimant, asking for a response to the motion within 20 days. The letter was sent by first class and certified mail to the Bauxite, Arkansas address that Claimant had used on all his correspondence with the Commission. While the certified letter was returned to the Commission, unclaimed, on October 16, 2025, the first-class letter was not returned. Regardless, no response from Claimant to the motion was forthcoming.

On October 17, 2025, a hearing on the Motion to Dismiss was scheduled for November 18, 2025, at 10:30 a.m. at the Commission in Little Rock. The notice was sent to Claimant via first-class and certified mail to the same address as before. In this instance, the certified letter was claimed on October 20, 2025, by someone with an illegible signature, while the first-class letter was not returned.

The hearing on the Motion to Dismiss proceeded as scheduled. Again, Claimant failed to appear at the hearing. But Respondents appeared through counsel and argued for dismissal under the foregoing authority.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following Findings of Fact and Conclusions of Law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

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1. The Arkansas Workers' Compensation Commission has jurisdiction over this matter.
2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.
3. The evidence preponderates that Claimant has failed to prosecute his claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted; this claim for initial benefits is hereby dismissed without prejudice under 11 C.A.R. § 25-110(d).

III. DISCUSSION

11 C.A.R. § 25-110(d) (formerly AWCC R. 099.13) reads:

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).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326

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S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

No Form AR-C has been filed in this case. That is the means for filing a “formal claim.” While a Form AR-1 was filed in this case, that does not suffice to instigate a claim. I recognize, however, that other means exist to file a claim for initial benefits other than a Form AR-C. In *Cook v. Southwestern Bell Telephone Company*, 21 Ark. App. 29, 727 S.W.2d 862 (1987) the Arkansas Court of Appeals discussed the minimum requirements necessary for correspondence to the Commission to constitute a claim for additional compensation for the purpose of tolling the applicable Statute of Limitations. There, the court held that an attorney's correspondence notifying the Commission that he has been employed to assist a claimant in connection with unpaid benefits is sufficient to state a claim for additional compensation where the correspondence also lists the claimant's name, the employer's name and the Commission file number. *See also Garrett v. Sears Roebuck and Company*, 43 Ark. App. 37, 858 S.W.2d 146 (1993). My review of the Commission's file discloses a document sufficient to constitute a claim for initial benefits under *Cook, supra*. That document is Claimant's June 24, 2025, email requesting an “appeal”—discussed above.

As shown by the evidence recounted above, (1) the parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon; and (2) Claimant has failed to pursue his claim because he has taken no further action in

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pursuit of it (including appearing at the November 18, 2025, hearing to argue against its dismissal) since his file was returned to the Commission's general files on September 11, 2025—which, again, was triggered by his stated failure that he was no longer interested in pursuing his claim. Thus, the evidence preponderates that dismissal is warranted under § 25-110(d).

That leaves the question of whether the dismissal of the claim should be with or without prejudice. The Commission possesses the authority to dismiss claims with prejudice. *Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App. 137, 744 S.W.2d 402 (1988). The Commission and the appellate courts have expressed a preference for dismissals without prejudice. See *Professional Adjustment Bureau v. Strong*, 75 Ark. 249, 629 S.W.2d 284 (1982)). Respondents at the hearing asked for a dismissal without prejudice. Based on the foregoing, I agree and find that the dismissal of this claim should be and hereby is entered *without prejudice*.¹

IV. CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim for additional benefits is hereby dismissed *without prejudice*.

IT IS SO ORDERED.

O. MILTON FINE II
Chief Administrative Law Judge

¹“A dismissal ‘without prejudice’ allows a new [claim] to be brought on the same cause of action.” BLACK’S LAW DICTIONARY 825 (abridged 5th ed. 1983).