

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H407204**

**SALLY BROWN,  
EMPLOYEE**

**CLAIMANT**

**BURGER KING RESTAURANTS,  
EMPLOYER**

**RESPONDENT**

**PROVISOR INS. CO.,  
CARRIER**

**RESPONDENT**

**MEM MUTUAL INS. CO.,  
TPA**

**RESPONDENT**

**OPINION FILED FEBRUARY 2, 2026**

Hearing conducted on Friday, November 14, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Jonesboro, Craighead County, Arkansas.

The Claimant is *Pro Se*, of Jonesboro, Arkansas.

The Respondents were represented by Ms. Karen McKinney, Attorney at Law, Little Rock, Arkansas.

**I. BACKGROUND**

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on September 5, 2025. A hearing on the motion was conducted on November 14, 2025, in Jonesboro, Arkansas. Claimant, according to Commission file is *Pro Se*, and appeared at the hearing.

The Claimant worked for the Respondent/Employer as an assistant manager. The date for Claimant's alleged injury was on June 19, 2024. This incident was reported to the Respondent/Employer on the same day. Admitted into evidence was Respondents' Exhibit 1,

pleadings, and correspondence, consisting of 42 pages, and Commission Ex. 1, pleadings, correspondence, and U.S. Mail return receipts, consisting of 11 pages, *as discussed infra*.

The record reflects on November 5, 2024, a Form AR-C was filed by Claimants then-attorney, Greg Giles, purporting that Claimant sustained injuries to her neck and back. On November 7, 2024, a Form AR-1 purporting that Claimant's injuries occurred when she turned a corner and fell while going to a back register to help with customers. On November 8, 2024, a Form AR-2 was filed initially accepting the claim. The Claimant went to the St. Benard's ER on the same day as the incident and was released back to work. The Claimant returned to work on June 20, 2024, and continued to work until August 19, 2024, when she stopped coming to work and did not request any additional medical care. The Respondents stated that they will be denying any claims at the time of the filing of the form AR-2. On January 16, 2025, Claimant's then-attorney filed a motion to withdraw as Claimant's attorney. The Claimant objected to Greg Giles motion to withdraw as counsel of record on January 24, 2025. The Full Commission granted Mr. Gile's motion on January 29, 2025. Due to Claimant's objection, the Full Commission reversed their withdrawal order. I have taken up the review of the withdrawal order and granted the motion on February 18, 2024.

On March 6, 2025, Claimant's new attorney, Scott Hunter, Jr., filed a request for a hearing. However, on July 14, 2025, Claimant's new attorney filed a motion to withdraw as counsel due to a difference of opinion on the future of the claim. On July 30, 2025, the Full Commission granted Mr. Hunter's withdrawal motion. Respondents filed a Motion to Dismiss due to Claimant's failure to prosecute her claim on September 5, 2025. The Claimant was sent, on September 9, 2025, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to his last known address. The certified motion notice was not claimed by Claimant as noted on the September 25, 2025, return

receipt. This notice was also sent regular U.S. Mail and did not return to the Commission. Despite this, the Claimant did not respond to the Motion, in writing, as required. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at her current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on October 9, 2025. The certified notice was claimed as noted by the October 20, 2025, return receipt. Likewise, the hearing notice sent regular First-Class was not returned to the Commission. The hearing took place on November 14, 2025. And as mentioned before, the Claimant did show up to the hearing.

The Claimant argued that she has never received her file from her previous attorney and wants to prosecute her. The Claimant stated that she did not live at the address in the Commission's file. She provided her updated address and was admonished that it is her responsibility to keep the Commission apprised of changes to her contact information.

## **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 November 14, 2025, hearing.
3. Respondents have not proven by the preponderance of the evidence that Claimant has failed to prosecute her claim under A.C.A. §11-9-702 (Repl. 2012), and 11 C.A.R. §25-110(d) (formerly AWCC Rule 099.13).

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

### **III. DISCUSSION**

11 C.A.R. §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 C.A.R. §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 bearing the October 20, 2025, date. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

Furthermore, 11 C.A.R. §25-110(d) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant alleged at the full hearing that she did not receive a copy of her file from neither Scott Hunter nor Gregory Giles, her previous attorneys. If true, this would handicap the Claimant's ability to prosecute her claim. Due to no evidence to the contrary, I find by the preponderance of the evidence that Respondents have failed to prove that Claimant failed to prosecute her claim.

Moreover, dismissal under A.C.A. §11-9-702(a)(4) (Repl. 2012), and A.C.A. §11-9-702(d) (Repl. 2012) is not automatic, but discretionary. The statute uses the term "may" revealing its discretionary application. Based on the foregoing, I find the Respondents have failed to prove by the preponderance of the evidence that Claimant's claim should be dismissed pursuant to A.C.A.

BROWN, AWCC No. H407204

§11-9-702(a)(4) (Repl. 2012), and A.C.A. §11-9-702(d) (Repl. 2012). Thus, Respondents' Motion to Dismiss should be denied.

**CONCLUSION**

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby denied, and prehearing questionnaires shall be sent to both parties.

**IT IS SO ORDERED.**

---

STEVEN PORCH  
Administrative Law Judge