

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. G802328**

WILLIAM CAIN, EMPLOYEE

CLAIMANT

FEDEX FREIGHT, INC., SELF-INSURED EMPLOYER

RESPONDENT

**SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.,
CARRIER/TPA**

RESPONDENT

OPINION FILED JANUARY 11, 2022

Hearing before Administrative Law Judge James D. Kennedy in Mountain Home, Baxter County, Arkansas.

Claimant is *pro se* and failed to appear.

Respondents are represented by their attorney, Michael E. Ryburn, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on December 15, 2021, in Mountain Home, Arkansas, on the respondents' Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was originally represented by Jarid M. Kinder, who was allowed to withdraw from the case by an Order from the Full Commission dated October 15, 2021. Claimant was *pro se* at the time of the hearing and failed to appear. The respondents accepted the claim, and all benefits were paid, including permanent partial disability (PPD). The claimant is still employed by the respondents. At no time has the claimant made a formal request for a hearing. The claimant filed a Form AR-C on June 4, 2021, which provided he injured his arm and hand. A Form AR-2 was filed on April 10, 2018, which provided that the first day of disability was April 4, 2018, which also happened to be the first day of benefits. Over six (6) months have passed since the date of the injury

and no action has been taken by the claimant to prosecute the claim. A Motion to Dismiss was filed on or about October 14, 2021.

An appropriate notice setting this matter for a hearing for a Motion to Dismiss was provided to the claimant by both certified and regular mail. A hearing was set for December 15, 2021, in regard to the Motion to Dismiss. The claimant did not file a response and failed to appear on the hearing date in Mountain Home, Arkansas. At the time of the hearing, Michael E. Ryburn 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 respondents, there is no alternative but to find that this matter should be dismissed 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.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE