

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. G900427**

**JOHN E. CAMP,
EMPLOYEE**

CLAIMANT

**KRISPY KREME LITTLE ROCK,
EMPLOYER**

RESPONDENT NO. 1

**LIBERTY INS. CORP./
LIBERTY MUTUAL GROUP,
INSURANCE CARRIER/TPA**

RESPONDENT NO. 1

**STATE OF ARKANSAS, DEATH & PERMANENT
TOTAL DISABILITY TRUST FUND**

RESPONDENT NO. 2

OPINION AND ORDER FILED MAY 18, 2020
TO HOLD THE RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE IN
ABEYANCE PENDING CLAIMANT'S EFFORTS TO RETAIN COUNSEL

Hearing conducted on Monday, May 17, 2021, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, John E. Camp, pro se, Bryant, Saline County, Arkansas, appeared pro se.

Respondent No. 1 was represented by the Honorable Zachary Ryburn, Ryburn Law Firm, Little Rock, Pulaski County, Arkansas.

Respondent No. 2, represented by the Honorable Christy L. King, waived appearance at the hearing.

STATEMENT OF THE CASE

A hearing was conducted on Monday, May 17, 2021, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2020 Lexis Replacement) and Commission Rule 099.13 (2020 Lexis Repl.).

Respondent No. 1 filed a motion to dismiss without prejudice with the Commission on April 12, 2021, requesting this claim be dismissed without prejudice for lack of prosecution. In accordance with applicable Arkansas law, the claimant was mailed due and proper legal notice of

Respondent No. 1's motion to dismiss, as well as a copy of the hearing notice at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt requested, which he received by picking up the certified letter at his local post office. (Commission Exhibit 1).

This claim was the subject of a prior motion to dismiss, which ALJ (now Chief ALJ) O. Milton Fine granted by order filed December 30, 2019. Thereafter, the claimant was represented by Ms. Whitney James/Ms. Laura Beth York of the Rainwater, Holt & Sexton law firm (the Rainwater firm), who re-filed the claim via a Form AR-C filed with the Commission on January 7, 2020. By letter dated March 4, 2021, Ms. Laura Beth York requested leave to withdraw as claimant's counsel, which the ALJ granted by letter to both parties dated March 17, 2021.

Thereafter, the respondents filed the subject motion to dismiss without prejudice with the Commission on April 12, 2021, and the claimant objected to the motion, first via a handwritten letter filed with the Commission on May 4, 2021 and, second, in person at the May 17, 2021 hearing. At the hearing the claimant explained he intended to pursue his claim, but he required additional time to retain counsel. The claimant also expressed the desire, and intention of visiting with a Commission legal advisor, which he intended to do immediately after the conclusion of the May 17, 2021, hearing.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission's entire file in this matter.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' motion to dismiss. After

a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. The claimant is granted an additional 45 days, or until the close of business (COB), 4:30 P.M., on Tuesday, July 13, 2021, to advise both the ALJ and the respondents' attorney, Mr. Zachary Ryburn, whether he has retained counsel; whether he wishes to proceed to a hearing pro se, i.e., without the benefit of counsel; or whether he intends not to prosecute his claim.
3. Therefore, Respondent No. 1's motion to dismiss without prejudice filed with the Commission on April 12, 2021, shall be held in abeyance until at least Tuesday, July 13, 2021, pending the claimant's notification as set forth in Paragraph 2 above.

Respondent No. 1 shall pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp