

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H000971**

**RODNEY CARROLL,
EMPLOYEE**

CLAIMANT

**POTLATCHDELTIC CORP.,
EMPLOYER**

RESPONDENT

**SENTRY CASUALTY CO./
SENTRY INS. CO.
INSURANCE CARRIER/TPA**

RESPONDENT

**OPINION AND ORDER TO DISMISS WITHOUT PREJUDICE
FILED JUNE 25, 2021**

Hearing conducted on June 25, 2021, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Mr. Rodney Carroll, pro se, of Warren, Bradley County, Arkansas, did not appear at the hearing.

The respondents were represented by the Honorable Jarrod S. Parrish, Worley, Wood & Parrish, P.A., Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Friday, June 25, 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 Replacement). On May 26, 2021, the respondents filed a motion to dismiss with the Commission, requesting this claim be dismissed without prejudice for lack of prosecution.

In accordance with applicable Arkansas law, the claimant was mailed due and legal notice of the respondents' motion to dismiss, as well as a copy of the hearing notice, via United States Postal Service (USPS) First Class Certified Mail, Return Receipt Requested, to his last known address of record with the Commission. Thereafter, by email to the ALJ's office dated June 15, 2021, the

claimant advised as follows: “I would like to go ahead to dismiss the trial *and go ahead and close the case.*” (Comms’n Ex. 1) (Emphasis added). The claimant did not appear at the scheduled hearing, nor did he cause anyone to appear on his behalf.

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 filed April 23, 2021. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively demonstrates the claimant has failed and/or refused to prosecute his claim.

Therefore, 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 specifically advised the Commission via email dated June 15, 2021, he desired to close his case; and he did not appear at the hearing. Therefore, the claimant is deemed to have waived his right to, and appearance at, the subject hearing.
3. The preponderance of the evidence of record reveals the claimant has to date failed and/or refused to prosecute his claim.
4. Therefore, the respondents’ motion to dismiss without prejudice filed with the Commission on May 26, 2021, is GRANTED; and this claim hereby is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b), and Commission Rule 099.13.

This opinion and order shall not be construed to prohibit the claimant, his attorney, any attorney he may retain in the future, or anyone else acting legally and on his behalf, from refileing the claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

The respondents are hereby ordered to 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