

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
AWCC CLAIM NO.: H102992**

MICHAEL G. CARTER, Employee	CLAIMANT
UTILITY TRAILER CORPORATION, Employer	RESPONDENT
LIBERTY INSURANCE CORPORATION, Carrier	RESPONDENT
LIBERTY MUTUAL GROUP, TPA	RESPONDENT

**OPINION AND ORDER FILED JULY 20, 2022**

Hearing conducted before Administrative Law Judge Terry Don Lucy, in Craighead County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: Honorable David C. Jones, Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on July 8, 2022, with respect to the Respondents' Motion to Dismiss originally filed with the Commission on May 6, 2022. When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did he appear during the ensuing proceedings. (TR 3-4; 12)

Following sounding of the hall, the Commission's file in this matter was deemed incorporated by reference into the record without objection for purposes of this Opinion and Order. (TR 4) Likewise, Respondents' Exhibit No. 1 was also introduced into the record without objection. (TR 4-5)

The Commission's file and Respondents' Exhibit No. 1 reflect that notice of the Respondents' Motion was sent to the Claimant via certified and first-class mail from the Commission dated May 10, 2022, to his last known address, which allowed him until May 31, 2022, to respond to such. (See, for instance, RX 1 at 63) There is no indication from the Commission's file nor Respondents' Exhibit No. 1 that the Claimant responded to such Motion

on or before the required date. Also of note, the Claimant's previous Counsel had been permitted to withdraw from this matter by way of a Full Commission Opinion and Order entered on October 14, 2021. (See, for instance, RX 1 at 46-48) Neither the Commission's file nor Respondents' Exhibit No. 1 reflects any further activity on the Claimant's behalf in prosecution of his claim since October 14, 2021.

The Commission's file reflects that notice of the hearing scheduled for July 8, 2022, was sent to the Claimant by the Commission via certified and first-class mail dated June 3, 2022, and that such was received at the Claimant's last known address on June 7, 2022, according to records provided to the Commission by the United States' Postal Service. (See also, TR 5-6)

Given the Claimant's lack of objection to the Respondents' Motion, corresponding failure to appear at the hearing held on July 8, 2022, despite obvious receipt of notice of such, and his apparent failure to request a hearing on the merits of his claim since October 14, 2021, I specifically find that the Claimant has failed to prosecute his claim in a timely manner and that dismissal thereof without prejudice is warranted pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13, for lack of timely prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective July 8, 2022 (TR 12), and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

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TERRY DON LUCY  
Administrative Law Judge