

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H205637**

**OSCAR CASTILLO,
EMPLOYEE** **CLAIMANT**

**HANKS FURNITURE, INC.,
EMPLOYER** **RESPONDENT**

**TRAVELERS INDEMNITY CO./
THE TRAVELERS CO.,
CARRIER/TPA** **RESPONDENT**

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED OCTOBER 21, 2024**

Hearing conducted on Tuesday, October 15, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Mr. Oscar Castillo, of Alexander, Saline County, Arkansas, appeared pro se.

The respondent was represented by the Honorable Guy Alton Wade, Friday, Eldredge & Clark, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Tuesday, October 15, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Replacement).

This claim was accepted as compensable, and the respondents paid all appropriate medical and indemnity benefits. A prehearing teleconference was conducted on March 22, 2024, which resulted in a prehearing order filed March 24, 2024. The claimant was represented by counsel prior to, during, and after the date the prehearing order was filed on March 24, 2024. By order filed August 14, 2024, the Full Commission granted the claimant's attorney's request to withdraw as the claimant's counsel.

Soon thereafter, by letter filed with the Commission on August 20, 2024 (letter MTD, or MTD), the respondents requested this claim be dismissed for lack of prosecution pursuant to the aforementioned statute and Commission rule.

In compliance with the applicable law the claimant was provided due and legal notice of the respondents' letter MTD, as well as the date, time, and location of the subject hearing. The claimant did not respond in writing to the respondents' motion, but he did appear in person at the subject hearing. The claimant testified under oath at the hearing he did not have any objection to the respondents' MTD.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto. (Hearing Transcript; Respondents' Exhibit 1 at 1-27).

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Repl.), 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. 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 reveals the claimant has failed and/or refused to prosecute his claim at this time.

Therefore, after a thorough consideration of the facts, issues, the applicable law, representations of counsel, 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. After having been mailed due and legal notice of the respondents' letter MTD without prejudice filed August 20, 2024, as well as notice of the subject hearing date, time, and

place, the claimant appeared in person at the hearing and testified under oath he did not object to the respondents' MTD.

3. The respondents' letter MTD without prejudice filed August 20, 2024, should be and hereby is GRANTED; and this claim is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* Section 11-9-702(a) and (b), and Commission Rule 099.13.

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

If they have not already done so, the respondents hereby are 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

