

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H304888

ROGER CLARK, Employee	CLAIMANT
OVERHEAD DOOR CO, INC., Employer	RESPONDENT
AMTRUST NORTH AMERICA, Carrier	RESPONDENT

OPINION FILED DEEMBER 9, 2025

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant represented by EVELYN E. BROOKS, Attorney, Fayetteville, Arkansas; although not present at hearing.

Respondents represented by WILLIAM C. FRYE, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

This case comes on for review following a hearing on respondents' Motion to Dismiss.

On May 16, 2024, Evelyn Brooks, the claimant's attorney, filed an AR-C requesting various compensation benefits in which the claimant alleges an injury to his right shoulder on or about April 6, 2023. Also, on May 16, 2024, the claimant requested a change of physician, and that request was granted by a Change of Physician Order dated May 20, 2024. Since then, no further action was taken in this claim.

On August 25, 2025, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for October 28, 2025. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on September 3, 2025. United States Postal Department records indicate that claimant received and signed for the notice on September 6, 2025. Due to a scheduling error, neither Ms. Brooks nor the claimant

appeared at the scheduled hearing. However, Ms. Brooks submitted an email response indicating that the claimant objects to the dismissal of his claim because he is concerned about his need for additional medical treatment and other benefits in the future. Ms. Brooks also indicated that there is currently no issue regarding benefits for the claimant. The claimant is not currently treating for his compensable injury. As no issue exists at this time nor is there any ongoing treatment for the claimant's compensable injury, I find it proper to dismiss this matter without prejudice.

Pursuant to 11 CAR §25-110(d) (previously codified as Commission Rule 099.13), the Commission may enter an order dismissing a claim for want of prosecution. After a review of the respondents' Motion to Dismiss, the claimant's lack of desire to pursue her claim, and her failure to appear at the scheduled hearing, as well as all other matters properly before the Commission, I find that claimant has failed to prosecute this claim. Therefore, this claim is dismissed without prejudice.

IT IS SO ORDERED.

**HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**