

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H204111**

PEGGY CLEMONS, EMPLOYEE

CLAIMANT

**SOUTH COUNTY SCHOOL DISTRICT'
EMPLOYER**

RESPONDENT

ARKANSAS SCHOOL BOARDS ASSOC

RESPONDENT

OPINION AND ORDER FILED JANUARY 21, 2025

The Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas was held on December 3, 2024.

Claimant is pro se and appeared on her own behalf at the time of the hearing.

Respondents are represented by Carol Worley, Little Rock, Arkansas.

STATEMENT OF THE CASE

The Respondents filed their initial Motion to Dismiss for Failure to Prosecute pursuant to Arkansas Code Ann 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act on or about April 12, 2023, and a hearing was held in regard to this motion on June 27th, 2023, in Little Rock, Arkansas, where the respondents contended that the claimant had not sought any type of bona fide hearing before the Arkansas Workers' Compensation Commission over the last six months. There was no record of the claimant filing a response to the Motion to Dismiss but the claimant did appear Pro Se at the time of the hearing.

The claimant had filed an AR – C on or about June 6, 2022, contending she had been injured on February 9, 2022, while loading car riders into their cars at the end of a school day, slipping on ice, and injuring her “foot, ears loudly ringing, with upper and lower back pain.” The respondents filed an AR-2 dated June 7, 2022, which provided that the claim was medical only. The claimant’s retained counsel, Evelyn Brooks, of Fayetteville

Arkansas, withdrew as the attorney of record on August 8, 2022, after obtaining an Order from the Full Commission.

After a hearing, the Motion to Dismiss was held in abeyance and the claimant was instructed to appropriately respond to the Prehearing Questionnaire and any outstanding discovery within 20 days of the Order. Further, the claimant was instructed to take the steps as required by the Arkansas Workers' Compensation Act that she deemed appropriate to pursue her claim, which might include obtaining counsel. Failure to do so could result in a request to renew the Motion to Dismiss and would leave no alternative but to take the appropriate action as spelled out in the Arkansas Workers' Compensation Act.

Another Opinion and Order was filed on September 13, 2023, after the claimant filed a number of documents, which appeared to be evidence of her claims. These documents were submitted with comments and highlights in violation of Commission Rules on admissibility and the claimant was placed on notice that the failure to submit these documents without comments and highlights would render these documents inadmissible at the time of a hearing. Additionally, the claimant had withdrawn her authorization for the respondents to obtain her medical records, as required by the rules of the Commission. It also appeared that the claimant had been unable or unwilling to obtain representation in this matter in order to assist her in pursuing her claim. The Opinion and Order instructed the claimant to submit a medical authorization not limited by time and to file an answered Prehearing Questionnaire within 10 days of this Order. In addition, the claimant was instructed that if she intended to pursue her claim to a hearing, she was required to submit documentary evidence that she intends to have admitted into evidence at the time of the hearing without comments or highlights. Failure to take this action would result in the documents being inadmissible.

Another Motion to Dismiss for Failure to Prosecute was filed on or about August 28, 2024, and a hearing was held in regard to this motion on December 3, 2024. The claimant, who had still not requested a hearing in regard to the matter, did submit documents at the time of the Motion to Dismiss hearing containing what appeared to be a Motion to Object to the Motion to Dismiss, Motions in Limine, Motions to Quash, Motions for Summary Judgement, and a statement that all the Respondents were liable for \$300,000.00 collectively for non-economic damages plus another \$75,000 per liable entity. She also mentioned the Federal Covid Relief Act and the New Learns Act teachers raise. In addition, she contended that she should be able to litigate Condition Code 91 and the International Classification of Disease Codes.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the Respondent, and the statements by the claimant, it is found that this matter should be dismissed without prejudice, for failure to prosecute pursuant to A.C.A. 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, and the multiple issues and hearings in regard to this matter, it is determined that the claimant has taken little to no action to actively pursue her claim over an extended period of time and there is no alternative but to grant the Motion to Dismiss this claim in its entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE