

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC NO. G701131

THERESA CLEM, Employee

CLAIMANT

BOST, INC., Employer

RESPONDENT

RISK MANAGEMENT RESOURCES, Carrier/TPA

RESPONDENT

OPINION FILED JUNE 2, 2021

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

Claimant represented by CAITLIN SMITH, Attorney at Law, Fayetteville, Arkansas; although not present at hearing.

Respondents represented by KAREN MCKINNEY, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On May 13, 2021, a hearing on Respondents' Motion to Dismiss was conducted in Fort Smith, Arkansas.

Claimant sustained an injury to her left shoulder on December 7, 2016. Respondents initially filed a Motion to Dismiss this claim on September 3, 2019; claimant objected to dismissal of her claim; and a hearing on that motion was conducted on October 31, 2019. An opinion was entered denying the respondents' Motion to Dismiss on November 13, 2019. Since that opinion denying the Motion to Dismiss, there has been no justiciable activity on this claim. Respondents last paid benefits in 2017, and an AR-4 Closing Report was filed with the Commission. Respondents filed a Renewed Motion to Dismiss on April 6, 2021. By e-mail dated April 29, 2021, claimant's attorney, Caitlin Smith, notified my office that "the claimant has

instructed us NOT to file an objection or response to the Respondent’s Motion to Dismiss in the above matter. Ms. Clem no longer wishes to pursue any remaining or outstanding claims for benefits in this matter.” Claimant waived her right to appear at the scheduled hearing.

After a review of the record as a whole, to include all matters properly before the Commission, and having had an opportunity to hear the statements of Respondents’ attorney as well as the claimant’s attorney’s e-mail response indicating that claimant had no objection to her claim being dismissed and waived her right to appear at the hearing., I find that this matter should be dismissed without prejudice for failure to prosecute pursuant to Commission Rule 099.13.

ORDER

Pursuant to the above statement of the case and Commission Rule 099.13, the respondents’ motion to dismiss this claim should be and hereby is granted. This dismissal is without prejudice.

If respondents have not already done so, they are directed to pay the court reporter, Veronica Lane, her fees and expenses within thirty (30) days of receipt of her invoice.

IT IS SO ORDERED.

ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE