

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC CLAIM NO.: G702484**

DON COFFMAN, Employee	CLAIMANT
LONOKE EXCEPTIONAL SCHOOL, INC., Self-Insured Employer	RESPONDENT NO. 1
A.T.A. WORKERS' COMPENSATION SELF-INSURED TRUST, Carrier	RESPONDENT NO. 1
RISK MANAGEMENT RESOURCES, TPA	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION AND ORDER FILED MAY 11, 2022

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

Counsel for the Claimant: *pro se*.

Counsel for Respondents No. 1: Honorable Karen H. McKinney, Attorney at Law, Little Rock, Arkansas.

Counsel for Respondents No. 2: Honorable Christy L. King, Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on May 3, 2022, with respect to Respondent No. 1's Motion to Dismiss originally filed with the Commission on February 24, 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 4)

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 No..1's Exhibit No. 1 was also introduced into the record without objection. (TR 9) It was further noted on the record that, according to the Commission's file, Respondent No. 2 had waived its appearance at the scheduled hearing by way of electronic communication sent to the undersigned Administrative Law Judge's office on April 4, 2022, and

is thus presumed to have no objection to Respondent No. 1's Motion.

The Commission's file reflects that notice of Respondent No. 1's Motion was sent to the Claimant via certified and first-class mail from the Commission dated March 1, 2022, to his last known address as of such date, which allowed him until March 21, 2022, to respond. Also, the Commission's file reflects that notice of the hearing was likewise sent to the Claimant via certified and first-class mail from the Commission dated April 4, 2022, to his last known address on such date. The Commission's file further reflects that the notice of hearing was received at the Claimant's address on April 13, 2022. (See also TR 5-6)

Both the Commission's file and Respondent No. 1's Exhibit No. 1 reflect that the above-captioned matter was the subject of prior proceedings before the Commission which culminated in an Opinion entered by the Arkansas Court of Appeals on February 13, 2019. Thereafter, through Counsel, the Claimant filed additional AR-C forms, the latest of which was filed on December 18, 2020. The Claimant's Counsel was thereafter allowed to withdraw by way of an Order entered by the Full Commission on January 24, 2022. There is no indication or evidence in either the Commission's file or Respondent No. 1's Exhibit No. 1 to suggest that a hearing has been requested in this matter since December 18, 2020.

Given the Claimant's lack of objection to Respondents No. 1's Motion, his corresponding failure to appear at the hearing held on May 3, 2022, and his apparent failure to request a hearing on the merits of his claim since December 18, 2020, 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 prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective May 3, 2022, and Respondent No. 1 is ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

TERRY DON LUCY
Administrative Law Judge