

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H001793**

RAYMOND M. COSTA, EMPLOYEE	CLAIMANT
WASTE MANAGEMENT, INC., EMPLOYER	RESPONDENT
INDEMNITY INS. CO. OF NORTH AMERICA/ ESIS, INC., INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED SEPTEMBER 8, 2021

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas, on August 17, 2021.

Claimant is represented by Laura Beth York, Attorney at Law.

Respondents are represented by Jarrod Parrish, Attorney at Law.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on August 17, 2021, in Little Rock, Arkansas, on the respondents' Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was employed by Waste Management, Inc., and alleged a left arm injury on or about March 8, 2020, which was accepted as compensable. The respondents contends that appropriate benefits were paid. The claimant filed a Form AR-C over six (6) months ago and has not sought any type of hearing. The respondents filed a Motion to Dismiss on or about June 24, 2021, and contended at the time of the hearing that the claimant had reached maximum medical improvement (MMI) in January 2021 and that the claimant was still working for the respondents.

An appropriate notice setting this matter for a hearing for the Motion to Dismiss was provided to the claimant by Certified Mail. A hearing was set for August 17, 2021, in regard to the Motion to Dismiss. The claimant's representative, Laura Beth York, did not

appear on the date of the hearing but did notify the respondents and the Commission that she had been unable to contact the claimant and did not object to the dismissal of the claim if the claim was dismissed without prejudice. At the time of the hearing, Jarrod Parrish appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having had an opportunity to hear the statements of the respondents' attorney, there is no alternative but to find that this matter should be dismissed for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

**JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE**