

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H400572

TAMMY CRAFT,
EMPLOYEE CLAIMANT

FAMILY DOLLAR STORES OF AR, INC.,
EMPLOYER RESPONDENT

GALLAGHER BASSETT SERVICES, INC./SEDGWICK
CLAIMS MANAGEMENT SERVICES, INC., INSURANCE
CARRIER/THIRD PARTY ADMINISTRATOR(TPA) RESPONDENT

OPINION FILED DECEMBER 20, 2024

Hearing held before Administrative Law Judge Chandra L. Black, Little Rock, Pulaski County, Arkansas.

The Claimant represented by the Honorable Mark A. Peoples, Attorney at Law, Little Rock, Arkansas. Mr. Peoples waived his appearance at the hearing

Respondents represented by the Honorable Jarrod Parrish, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on December 19, 2024, in the present matter pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702, and/or Arkansas Workers' Compensation Commission Rule 099.13.

Appropriate Notice of this hearing was had on all parties to their last known address, in the manner prescribed by law.

No testimony was taken.

The record consists of the transcript of December 19, 2024, hearing and the documents held therein. The Commission's Exhibit consists of two pages, which were provided to the Commission by the United States Postal Service. It was marked accordingly. The Respondents'

Exhibit 1 consists of twelve (12) numbered pages of pleadings, correspondence, and various other forms related to this claim.

Procedural History

On April 22, 2024, the Claimant's attorney filed with the Commission a claim for Arkansas workers' compensation benefits via a Form AR-C. Per this document, the Claimant alleged that she sustained multiple injuries during the course and in the scope of his employment with the respondent-employer, on December 28, 2023. The Claimant requested both initial and additional benefits. In fact, he checked off all the boxes for every conceivable workers' compensation benefit under the law.

The respondent-insurance-carrier filed a Form AR-2 with the Commission on January 25, 2024. Per this form, the Respondents accepted this claim as a compensable claim.

Since this time, the Claimant has not tried to pursue or otherwise resolve his claim, nor has he made a bona fide request for a hearing since the filing for the Form AR-C.

Therefore, on December 16, 2024, the Respondents filed a *Motion to Dismiss for Failure to Prosecute*, with the Commission, along with a Certificate of Service to the Claimant's attorney. Hence, the Respondents forwarded a copy of said motion to the attorney via an e-mail.

The Claimant's attorney sent an email to my office on December 18, 2024. He wrote, "I as that I be excused. Claimant does not oppose, provided dismissal is w/o prejudice."

Pursuant to an e-mail, the Commission notified the parties that the matter had been set for a hearing on the Respondents' motion to dismiss. Said hearing was scheduled for December 19, 2024, at the Arkansas Workers' Compensation Commission in Little Rock, Arkansas.

The hearing was held as scheduled. The Claimant's attorney waived his appearance at the hearing. The Respondents' counsel appeared at the hearing and argued that the Claimant has

failed to prosecute her claim for workers' compensation benefits. More specifically, the Respondents' counsel noted that the Claimant has not taken any action to advance her claim since the filing of the Form AR-C, which was done almost a year ago. He further essentially noted that the Claimant's attorney does not oppose the claim being dismissed without prejudice. Therefore, the Respondents' attorney moved that this claim be dismissed without prejudice pursuant to Ark. Code Ann. §11-9-702, and/or Commission Rule 099.13.

A review of the evidence shows that the Claimant has had ample time to pursue her claim for workers' compensation benefits, but she has failed to do so. Specifically, the Claimant has not requested a hearing or otherwise made any effort to prosecute her claim for workers' compensation benefits since the filing of the Form AR-C almost a year ago; and nor has she resisted the motion for dismissal of his workers' compensation claim. In fact, counsel for the Claimant has advised that he does not object to the claim being dismissed without prejudice.

Here, the evidence preponderates that the Claimant has failed to prosecute this claim for workers' compensation benefits. Counsel for the Claimant does oppose the claim being dismissed without prejudice. Therefore, after consideration of the evidence before me, I find that the Respondents' motion to dismiss for a lack of prosecution to be well taken. I thus find that pursuant to the provisions of Ark. Code Ann. §11-9-702, and Commission Rule 099.13, this claim for workers' compensation benefits is hereby respectfully dismissed *without prejudice* to the refiling within the limitation period specified under the Arkansas Workers' Compensation Act (the "Act").

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the basis of the record as a whole, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. The Respondents filed with the Commission a motion for dismissal of this claim, for which a hearing was held.
3. The Claimant does not object to this claim being dismissed without prejudice.
4. The Respondents' motion to dismiss this claim for lack of prosecution is hereby granted, *without prejudice*, per Ark. Code Ann. §11-9-702, and Commission Rule 099.13, to the refiling of it within the limitation period specified by law.

ORDER

Based upon the foregoing findings, I have no alternative but to dismiss this claim for workers' compensation benefits. This dismissal is per Ark. Code Ann. §11-9-702, and Commission Rule 099.13, *without prejudice* to the refiling of this claim within the limitation period specified under the Act.

IT IS SO ORDERED.

Chandra L. Black
Administrative Law Judge