

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H401250**

**LISA CURTIS,
EMPLOYEE**

CLAIMANT

**ENGAGEMED, INC.,
EMPLOYER**

RESPONDENT

**CINCINNATI INDEMNITY CO./
CINCINNATI INS. CO.
CARRIER/TPA**

RESPONDENT

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED DECEMBER 9, 2024**

Hearing conducted on Friday, December 6, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Hot Springs, Garland County, Arkansas.

The claimant, Ms. Lisa Curtis, pro se, of Hot Springs, Garland County, Arkansas, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Karen H. McKinney, Barber Law Firm, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Friday, December 6, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Replacement). On September 18, 2024, the respondents filed a motion to dismiss this claim without prejudice (MTD) for lack of prosecution pursuant to the aforementioned statute and Commission rule.

In compliance with the applicable law the claimant was mailed due and legal notice of the respondents' MTD as well as the date, time, and location of the subject hearing via the United

States Postal Service (USPS), certified mail, return receipt requested, which she received in October 2024. (Commission's Exhibit 1). The claimant did not respond in writing to the respondents' motion, and she failed and/or refused to appear at the subject hearing.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Repl.), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' motion to dismiss. The respondents' MTD contains a thorough, relevant, and accurate recitation of the facts, which I hereby incorporate by reference as if they were set forth word-for-word herein. (Hearing Transcript; Respondents' Exhibit 1). Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant has failed and/or refused to prosecute her claim at this time. (Respondents' Exhibits 1A-E; 2, and 3). Therefore, I must conclude the claimant does not wish to pursue her claim.

Therefore, after a thorough consideration of the facts, issues, the applicable law, representations of highly credible counsel, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having been mailed due and legal notice of the respondents' MTD without prejudice filed September 18, 2024, as well as notice of the date, time, and place of the subject hearing, the claimant failed and/or refused to respond in any way to the respondents' MTD,

and she failed and/or refused to appear at the hearing. Therefore, the claimant is deemed to have waived her right to a hearing on the respondents' MTD.

3. The claimant has not requested a hearing in the last six (6) months, and she has failed to prosecute her claim.
4. The respondents' MTD without prejudice filed September 18, 2024, should be and hereby is GRANTED; and this claim is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* Section 11-9-702(a) and (b), and Commission Rule 099.13.

This Order shall *not* be construed to prohibit the claimant, her attorney, any attorney she may retain in the future, or anyone acting legally and on her behalf from refiling the claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

If they have not already done so, the respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp

