

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **G904165**

ABDIEL GONZALEZ DIAZ, EMPLOYEE CLAIMANT

TYSON POULTRY INC., SELF-INSURED EMPLOYER RESPONDENT#1

DEATH AND PERMANENT TOTAL DISABILITY TRUST FUND RESPONDENT#2

OPINION/ORDER FILED **OCTOBER 25, 2021**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF, in Springdale, Washington County, Arkansas.

Claimant is *pro se*.

Respondent #1 is represented by JEREMY SWEARINGEN, Attorney, Little Rock, Arkansas

Respondent #2 is represented by DAVID L. PAKE, Attorney, Little Rock, Arkansas; although not appearing at hearing.

OPINION/ORDER

On June 27, 2019, claimant filed Form AR-C, alleging a compensable injury on April 29, 2019. Claimant was represented by Attorney Whitney James when the AR-C was filed. At the time, Ms. James was associated with Rainwater, Holt and Sexton. On behalf of that firm, Attorney Laura Beth York filed a letter of formal withdrawal on October 24, 2019, and an Order granting the request to withdraw was entered on November 5, 2019. Since that time, no other attorney entered an appearance on claimant's behalf and claimant remains *pro se*. In reviewing the file, I noted that there was scheduled a joint petition hearing on October 23, 2019, prior to claimant's counsel withdrawing from the case. At the hearing, respondent's counsel explained that the claimant appeared at the hearing and advised his attorney he did not want to proceed with the settlement at that time. Claimant

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requested additional medical treatment, which respondent provided, including surgery by Dr. Mark Tait. Claimant was assessed a permanent impairment rating of 4% to his upper extremity which respondent paid.

On July 7, 2021, respondent filed a Motion to Dismiss, alleging that it had been more than six months since claimant filed his Form AR-C with the Commission, but he had not made a request for a hearing in that time. A hearing on respondent's Motion to Dismiss was scheduled for October 18, 2021. Notice of the scheduled hearing was sent to claimant by certified mail at the last address in the Commission's file. The notice was returned unclaimed on August 18, 2021. Claimant did not respond to Respondent's motion and did not appear in person at the hearing on October 18, 2021.

I find it has been more than six months since prior to this hearing and that no request for a hearing has been made in this file. After my review of the respondent's motion, the claimant's lack of response and failure to attend the hearing for the respondent's motion, as well as all other matters properly before the Commission, I find that respondent's Motion to Dismiss this claim should be and hereby is granted. This dismissal is pursuant to Commission Rule 099.13 and is without prejudice.

IT IS SO ORDERED.

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JOSEPH C. SELF  
ADMINISTRATIVE LAW JUDGE