

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G802930

OVIDIO DUARTE, Employee	CLAIMANT
TYSON POULTRY, INC., Employer	RESPONDENT #1
TYNET, Carrier/TPA	RESPONDENT #1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT #2

OPINION/ORDER FILED DECEMBER 1, 2021

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by EVELYN E. BROOKS, Attorney, Fayetteville, Arkansas; although not appearing at hearing.

Respondent #1 represented by LAURA J. PEARN, Attorney, Fort Smith, Arkansas.

Respondent #2 represented by CHRISTY L. KING, Attorney, Little Rock, Arkansas; although not participating in hearing.

OPINION/ORDER

This case comes on for review following a hearing on respondent #1's motion to dismiss.

On June 11, 2019, claimant filed Form AR-C alleging a compensable injury on January 10, 2018. Since that time, claimant has not requested a hearing on the merits of his claim. As a result, on September 21, 2021, respondent #1 filed a motion to dismiss this claim for lack of prosecution pursuant to Commission Rule 099.13.

A hearing was scheduled on the respondent's motion for November 10, 2021. By e-mail dated October 12, 2021, claimant's attorney indicated that claimant had no

objection to the dismissal of the claim and indicating that unless instructed otherwise, neither claimant nor his attorney would attend the hearing. Both were excused from attendance.

After my review of respondent's motion, the claimant's lack of objection, and all other matters properly before the Commission, I find that respondent #1's Motion to Dismiss this claim should be and hereby is granted. This dismissal is pursuant to Commission Rule 099.13 and it is without prejudice.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE