

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC NO. G802439

RANDY DUTTON, Employee	CLAIMANT
SPRINGDALE SCHOOL DISTRICT, Employer	RESPONDENT
ARKANSAS SCHOOL BOARDS ASSOC. WCT, Carrier	RESPONDENT

OPINION FILED JUNE 10, 2021

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant not represented by counsel and not appearing at hearing.

Respondents represented by JAMES A. ARNOLD, II, Attorney at Law, Fort Smith, Arkansas.

STATEMENT OF THE CASE

On June 1, 2021, a hearing on Respondents' Motion to Dismiss was conducted in Springdale, Arkansas. On April 23, 2018, claimant filed a Form AR-C with the Commission alleging he sustained a work-related injury to his right knee on or about February 21, 2018. Respondents initially controverted the claim, and on August 15, 2018 a pre-hearing conference was conducted and a hearing was scheduled for October 16, 2018. The hearing was canceled and the file was returned to general files on October 2, 2018 when the respondents accepted the claim as compensable and all issues were resolved.

Respondents filed a Motion to Dismiss for want of prosecution on October 2, 2019, and a hearing was scheduled on said motion for November 19, 2019. Claimant objected to the dismissal and respondents withdrew their motion and the file was again returned to general files.

Since that date, no further action has been taken by claimant to pursue his claim. Respondents filed a Second Motion to Dismiss on April 16, 2021, and on April 23, 2021, a hearing notice was sent to the parties setting this matter for a dismissal hearing on June 1, 2021. On April 21, 2021, Melissa Campbell, claimant’s wife, sent an e-mail indicating:

“We have received the Motion to Dismiss regarding the above claim. We are in agreement with the dismissal at this time. Randy has not had any major issues with his knee in the last 6 months. If anything further is needed, please let me know.”

My office sent a reply e-mail confirming that claimant had no objection to the dismissal and that he waived his right to appear at the dismissal hearing.

After a review of the record as a whole, to include all matters properly before the Commission, and having had an opportunity to hear the statements of Respondents’ attorney as well as the claimant’s e-mail indicating that he had no objection to his claim being dismissed, I find that this matter should be dismissed without prejudice for failure to prosecute pursuant to Commission Rule 099.13.

ORDER

Pursuant to the above statement of the case and Commission Rule 099.13, the respondents’ motion to dismiss this claim should be and hereby is granted. This dismissal is without prejudice.

If respondents have not already done so, they are directed to pay the court reporter, Glenda Woods, her fees and expenses within thirty (30) days of receipt of her invoice.

IT IS SO ORDERED.

**ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**