

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H401379**

**HOPE DAVIS,  
EMPLOYEE**

**CLAIMANT**

**ARK. OPCO HOLDING LLC.,  
EMPLOYER**

**RESPONDENT**

**GREAT AMERICAN ALLIANCE INS. CO.,  
CARRIER/TPA**

**RESPONDENT**

**OPINION FILED DECEMBER 18, 2024**

Hearing conducted on Wednesday, December 11, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant, Ms. Hope Davis, *Pro Se*, of Benton, Arkansas, did not appear in person at the hearing.

The Respondents were represented by the Honorable Jason Ryburn, Little Rock, Arkansas.

**I. BACKGROUND**

This matter comes before the Commission for a full hearing. However, when the Claimant failed to show up for the full hearing, Respondents' counsel made a motion to convert the full hearing into a motion to dismiss hearing. I granted that motion. Respondents next renewed its previous motion to dismiss, which I held in abeyance, due to Claimant's objection to the dismissal motion and subsequent request for a hearing. I heard oral argument on the Motion to Dismiss on December 11, 2024, in Little Rock, Arkansas.

The Claimant worked for the Respondent/Employer as a registered nurse. The date for Claimant's alleged injury was on February 11, 2024. She reported her injury to Respondent/Employer on February 28, 2024. Respondents admitted into evidence Respondents

Exhibit 1, Form AR-C, pleadings, and correspondence consisting of 11 pages. Also, admitted into evidence was blue-backed Form AR-1, Form AR-2, a copy of certified return receipt dated November 15, 2024, hearing letter dated October 30, 2024, and copy of hearing notice/ Prehearing Order filed October 30, 2024, *as discussed infra*.

The record reflects on February 23, 2024, a Form AR-C was filed with the Commission, purporting that Claimant received an umbilical hernia when she was lifting a patient. On February 29, 2024, a Form AR-1 was filed with the Commission purporting to deny compensability due to the lack of a specific incident. On March 1, 2024, a Form AR-2 was filed by Respondents denying compensability of the injury. The Respondents filed a Motion to Dismiss on September 4, 2024, alleging a lack of prosecution. The Claimant faxed a handwritten objection to the Motion that included a request for a hearing on September 16, 2024, to the Commission. As a result, I held the Respondents' Motion in abeyance, sent out pre-hearing questionnaires, and held a pre-hearing conference on October 30, 2024. During the pre-hearing conference a full hearing date was set for December 11, 2024, at 10 am., which both parties agreed to.

The Claimant was also sent notice of the full hearing through certified and regular U.S. Mail, on October 30, 2024, to her last known address. The certified motion notice was unclaimed by the Claimant. However, the hearing notice that was sent regular U.S. Mail did not returned to the Commission. And as mentioned before, the Claimant did not show up to the hearing.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record as a whole and other matters properly before the Commission, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Commission has jurisdiction over this claim.

2. The Claimant and Respondents both had reasonable notice of the December 11, 2024, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under AWCC Rule 099.13.
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

### **III. DISCUSSION**

AWCC 099.13 provides:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

*See generally Johnson v. Triple T Foods*, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with a full hearing and AWCC Rule 099.13, the Commission scheduled and conducted a hearing, with reasonable notice, to the Claimant. Though the certified hearing notice was unclaimed, that same notice was also sent to the Claimant's address of record by regular First-Class U.S. Mail on October 30, 2024, and did not return to the Commission. The Claimant is responsible for providing the Commission with her current address. The Commission is responsible for providing reasonable notice of a hearing to the Claimant. Sending a hearing notice to the last known address that was provided to it by the Claimant is reasonable. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

AWCC Rule 099.13 allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant has failed to appear at her own

hearing that she requested. The Claimant has abandoned her claim by her failure to appear at her own hearing that she had requested. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute her claim by failing attend her hearing. Thus, Respondents' Motion to Dismiss should be granted.

**CONCLUSION**

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

**IT IS SO ORDERED.**

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STEVEN PORCH  
Administrative Law Judge