

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO.: G901557**

JESSICA EUBANKS, Employee	CLAIMANT
CITY OF LITTLE ROCK, Self-Insured Employer	RESPONDENT
RISK MANAGEMENT RESOURCES, TPA	RESPONDENT

OPINION AND ORDER FILED JANUARY 19, 2022

Hearing conducted before ADMINISTRATIVE LAW JUDGE TERRY DON LUCY, in Pulaski County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: HONORABLE MELISSA WOOD, Attorney at Law, Little Rock, Arkansas

The above-captioned matter came on for a hearing on January 6, 2022, with respect to the Respondents' Motion to Dismiss originally filed with the Commission on August 19, 2021.

When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did she appear during the ensuing proceedings.

During the hearing, the Commission's file was deemed incorporated by reference into the record with respect to the current proceedings, inclusive of the transcript of previous proceedings held on October 6, 2021, and the resulting Order filed on October 19, 2021, the latter of which is regarded as the law of the case.

The Commission's file reflects that the Order filed on October 19, 2021, held the Respondents' Motion to Dismiss in abeyance until December 3, 2021, to afford sufficient time for the Claimant's previous Counsel to withdraw and for the former to obtain new Counsel. The Commission's file further reflects that the Claimant's previous Counsel was allowed to withdraw by way of an Order entered on November 18, 2021, and that no further action to prosecute this matter has been undertaken by the Claimant since October 19, 2021. Consequently, the

Respondents' Motion to Dismiss was scheduled for the hearing held on January 6, 2022.

In addition, the Commission's file reflects that the Claimant contacted the Commission's Legal Advisor Division by telephone on December 2, 2021, and expressly stated that she did not want to pursue her claim. Also, the Claimant provided electronic correspondence to the Commission dated December 2, 2021, in which she indicated that she wished to withdraw her request for a hearing in this matter.

The Commission's file does not suggest any response by the Claimant with respect to the pending Motion to Dismiss other than her above-noted contacts with the Commission. Also, there is no indication that the Claimant has taken any measures to further prosecute her claim since the previous Order of October 19, 2021.

Given the Claimant's lack of objection to the Respondents' Motion, corresponding failure to appear at the hearing held on January 6, 2022, express desire to not prosecute the present matter, and apparent failure to take any action with respect to the merits of this matter since October 19, 2021, I specifically find that the Claimant has failed to prosecute the present matter in a timely manner and that dismissal thereof without prejudice is warranted pursuant to Commission Rule 099.13, for lack of timely prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective January 6, 2022, and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

TERRY DON LUCY
Administrative Law Judge