

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H403297**

**TONY FLAHERTY,
EMPLOYEE**

CLAIMANT

**ENVOY AIR, INC.,
EMPLOYER**

RESPONDENT

**AIU INS. CO./SEDGWICK CLAIMS MG'T SERVICES, INC.
CARRIER/TPA**

RESPONDENT

**OPINION FILED AUGUST 29, 2025,
GRANTING RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE**

Hearing conducted on Thursday, August 28, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Texarkana, Miller County, Arkansas.

The claimant, Mr. Tony Flaherty, pro se, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Randy P. Murphy, Anderson, Murphy & Hopkins, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Thursday, August 28, 2025, to determine whether this claim should be dismissed without prejudice pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2025 Lexis Replacement) and 11 *C.A.R.* Section 25-110(d) (*Code of AR Regulations* 2025) (formerly cited as Commission Rule 099.13 (2025 Lexis Replacement)).

The respondents filed a motion to dismiss this claim without prejudice for lack of prosecution (MTD) on April 18, 2025. (Respondents' Exhibit 1 at 1-2). In accordance with the applicable law the claimant was provided due and legal notice of both the respondents' MTD as well as the date,

time, and place of the subject hearing. Thereafter, the claimant failed and/or refused to respond to the respondents' motion in any way, or to appear at the subject hearing.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2025 Lexis Replacement), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' MTD. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant has failed and/or refused to either actively prosecute his claim or to request a hearing within the last six (6) months.

Therefore, after a thorough consideration of the issues at bar, the applicable law as applied to the facts of this claim, and other relevant matters of record including the representations of credible counsel, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having been mailed due and legal notice of both the respondents' MTD without prejudice filed with the Commission on April 18, 2025, as well as due and legal notice of the date, time, and place of the subject hearing, the claimant failed and/or refused to respond to the MTD in any way and failed and/or refused to appear at the subject hearing.
3. The claimant has not requested a hearing within the last six (6) months and has taken no steps to raise any issues related to or to prosecute this claim.
4. Therefore, the preponderance of the evidence compels the decision the respondents' MTD without prejudice filed April 18, 2025, should be and hereby is GRANTED; and this claim is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark.*

Tony Flaherty, AWCC No. H403297

Code Ann. Section 11-9-702(a) and (b) and 11 C.A.R. 25-110(d) (formerly cited as Commission Rule 099.13).

If they have not already done so, the respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp

