

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H305143**

**TRACEY J. FORD,
EMPLOYEE**

CLAIMANT

**RADIUS AEROSPACE, INC.,
EMPLOYER**

RESPONDENT

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

RESPONDENT

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED MARCH 10, 2025**

Hearing conducted on Friday, March 7, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Hot Springs, Garland County, Arkansas.

The claimant, Ms. Tracey J. Ford, pro se, of Hot Springs, Garland County, Arkansas, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Kevin J. Staten, The Laser Law Firm, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Friday, March 7, 2025, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2025 Lexis Replacement) and Commission Rule 099.13 (2025 Lexis Replacement).

The claimant herein previously was represented by counsel. By unanimous order filed June 25, 2024, the Full Commission granted the claimant's counsel's request to withdraw as her attorney of record. Thereafter on November 13, 2024, the respondents' attorney filed the subject motion to dismiss for lack of prosecution (MTD). (Respondents' Exhibit 1 at ???). In compliance

with the applicable law the claimant was provided due and legal notice of the respondents' MTD as well as the date, time, and location of the subject hearing by United States Postal Service (USPS) First Class Mail, Certified, Return Receipt Requested, which she received on November 18, 2024. (Commission Exhibit 1). The claimant did not respond in writing to the respondents' motion in any way, and she failed and/or refused 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 Repl.), 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' motion to dismiss. 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 prosecute her claim at this time.

Therefore, after a thorough consideration of the facts, issues, the applicable law, representations of counsel, and other relevant matters of record, 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 the respondents' MTD without prejudice filed November 13, 2024, as well as notice of the date, time, and place of the subject hearing, the claimant failed and/or refused to respond in any way to the respondents' MTD, and she failed and/or refused to appear at the hearing. Therefore, the claimant is deemed to have waived her right to a hearing on the respondents' MTD.
3. The respondents' MTD without prejudice filed November 13, 2024, should be and hereby is GRANTED; and this claim is dismissed without prejudice to its refiling pursuant to the

deadlines prescribed by *Ark. Code Ann.* Section 11-9-702(a) and (b), and Commission Rule 099.13.

This Order shall *not* be construed to prohibit the claimant, her attorney, any attorney she may retain in the future, or anyone acting legally and on her behalf from refiling the claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

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

