

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No H302171

JIMMY G. FOREMAN, EMPLOYEE

CLAIMANT

CITY OF HASKELL, EMPLOYER

RESPONDENT

ARKANSAS MUNICIPAL LEAGUE, CARRIER/TPA

RESPONDENT

OPINION FILED 8 FEBRUARY 2024

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 7 February 2024, in Little Rock, Pulaski County, Arkansas.

The *pro se* claimant did not appear.

Ms. Mary K. Edwards, Attorney-at-Law of North Little Rock, Arkansas, appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 7 February 2024. This case relates to a workplace injury sustained on or about 25 May 2022, with a Form AR-C eventually filed on 4 April 2023 and a First Report of Injury filed on 17 April 2023. A Form AR-2, dated 17 April 2023, was then filed indicating an initial denial of the claim for lack of supporting medical documentation.

In email correspondence with the Commission dated 7 June 2023, the claimant stated that the emergency department bills at issue were being paid by the respondents and that he had no other issues requiring the Commission's consideration. The matter was returned to the Clerk's office, accordingly.

The respondents filed their Motion to Dismiss for Failure to Prosecute on 7 December 2023, stating that the claimant had not sought a hearing on any matter at controversy in the six (6) months preceding that filing.

Notice of the respondents' motion and then notice of a hearing date for that motion were sent to the claimant via First Class and Certified mail. The claimant responded to the Commission via email on 4 January 2024, asking about the nature of the hearing. According to the email correspondence, he was advised that his attendance was not required if he did not object to the matter being dismissed.

The claimant did not file an objection to the dismissal or appear at the hearing to argue against the respondents' motion. The respondents appeared, presented their motion, and offered supporting evidence into the record. As argued by the respondents at the hearing, the file reflects no request for a hearing on a claim in the relevant time preceding the filing of that motion.

Arkansas Code Annotated §11-9-702(a)(4) states that a matter may be dismissed without prejudice after six (6) months without a *bona fide* request for a hearing. Commission Rule 099.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

VI. ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE