

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H307361

ADAM K. FRANKLIN,
EMPLOYEE

CLAIMANT

GARLAND COUNTY SHERIFF'S DEPARTMENT,
EMPLOYER

RESPONDENT

AAC/RISK MANAGEMENT SERVICES
CARRIER/TPA

RESPONDENT

OPINION FILED AUGUST 14, 2025

Hearing held before Administrative Law Judge Chandra L. Black, in Hot Springs, Garland County, Arkansas.

Claimant, *pro se*, did not appear for the dismissal hearing.

Respondents represented by the Honorable Carol Lockard-Worley, Attorney at Law, Little Rock, Arkansas.

Statement of the Case

A hearing was held on July 25, 2025, in the above-referenced matter pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether this case should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)).

Appropriate notice of this hearing was tried on all parties to their last known address, in the manner prescribed by law.

No testimony was taken.

The record consists of the hearing transcript of July 25, 2025, and the documents held therein. Commission's Exhibit 1 consisting of ten pages has been marked accordingly, and the

Respondents introduced into evidence an exhibit consisting of eight numbered pages, which was thus marked Respondents' Exhibit 1. (Of note, the hearing transcript erroneously states that Respondents' exhibit consists of nine pages). Both exhibits were introduced into evidence without objection.

Background

The procedural history of this claim is as follows:

The Claimant's former attorney filed a Form AR-C with the Commission on November 21, 2024, alleging that the Claimant sustained a compensable injury on October 21, 2023, while working for the respondent-employer. Per this document, the Claimant allegedly injured his left knee in a work-related accident. Under the Claim Information section of the Form AR-C, it shows that the Claimant requested only additional workers' compensation benefits. These benefits included a claim for additional temporary total disability compensation, additional temporary partial disability benefits, rehabilitation, additional medical expenses, additional permanent partial benefits, and attorney fees.

The Respondents' claims specialist filed a Form AR-2, with the Commission on November 9, 2023, accepting compensability of the claim for a compensable left knee injury.

Subsequently, there was no action whatsoever taken on the part of the Claimant to prosecute his claim or otherwise pursue settlement of it.

However, the Claimant's attorney filed a motion to withdraw from representing the Claimant in this claim. On April 23, 2025, the Full Commission entered an order granting the motion.

Since this time, the Claimant has not taken any action to pursue or resolve his claim.

Therefore, on or about May 27, 2025, the Respondents filed a Motion to Dismiss for Failure to Prosecute, with the Commission. The Respondents notified the Claimant of said motion pursuant to a certificate of service sent via the United States Postal Service on that same date.

Subsequently, on May 29, 2025, my office sent a letter-notice informing the Claimant of the Respondents' motion to dismiss, and a deadline of twenty days for filing a written response. This letter was sent via first-class and certified mail.

Information received by the Commission from the United States Postal Service confirms that they were unable to deliver the item sent via certified mail to the Claimant's residence on June 13, 2025, because an unidentified individual refused delivery of this item. Yet the notice sent by first-class mail was returned to the Commission on June 8, 2025, marked undeliverable.

Per a Hearing Notice generated on June 19, 2025, my office notified the parties that a hearing had been scheduled on the Respondents' motion to dismiss. Said dismissal hearing was scheduled for 9:30 a.m., at the Transportation Depot, in Hot Springs, Arkansas. This hearing notice was sent via first-class and certified mail.

Information received from the Postal Service shows that the hearing notice sent via certified mail was delivered to the Claimant's residence on June 30, 2025. Said hearing notice sent via certified mail was delivered to the Claimant's residence and left with an unidentified individual. The signature of the recipient of this item is illegible. However, on June 24, 2025, the notice sent via first-class mail was returned to the Commission. Based on the foregoing, the evidence preponderates that the Claimant had notice of the dismissal hearing.

A hearing was in fact conducted on the Respondents' motion as scheduled. The Claimant did not appear for the hearing. However, the Respondents appeared through their attorney. The Respondents' counsel argued, among other things, that the Claimant has failed to timely prosecute

his claim for workers' compensation benefits. Counsel further noted that the Claimant did not appear at the hearing to object to the dismissal or request a hearing. As such, Counsel moved that this claim be dismissed for failure to prosecute under Ark. Code Ann. §11-9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)).

Adjudication

Therefore, the statutory provision and Arkansas Workers' Compensation Rule applicable in the Respondents' request for dismissal of this claim are outlined below:

Specifically, Ark. Code Ann. §11-9-702(d) provides:

If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, if necessary, be dismissed without prejudice to the refiling of the claim within the limitation period specified in subsection (b) of this section.

Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d), reads as follows:

The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.

In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.

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. (Effective March 1, 1982)

A review of the evidence shows that the Claimant has had ample time to pursue his claim for additional workers' compensation benefits, but he has failed to do so. Specifically, the Claimant has not requested a hearing or otherwise made any effort to prosecute his claim since the filing of the Form AR-C more than six (6) months ago; and nor has he resisted the motion to

dismiss his claim despite having received notice of the dismissal hearing. Thus, the evidence preponderates that the Claimant has clearly failed to prosecute this claim for additional workers' compensation benefits. Furthermore, I am convinced that the Claimant has abandoned his claim.

Therefore, after consideration of the evidence before me, I find that the Respondents' motion to dismiss for a lack of prosecution to be well taken. I thus find that pursuant to Ark. Code Ann. §11-9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)), this claim for additional workers' compensation benefits is hereby respectfully dismissed *without prejudice* to the refile of it within the limitation period specified under the Arkansas Workers' Compensation Act (referred to herein as the "Act").

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the record as a whole, 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 Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The Claimant's former attorney filed a Form AR-C in May 2024. Since this time, the Claimant has not requested a hearing or shown that he wishes to pursue this claim for additional workers' compensation benefits.
3. The Respondents filed with the Commission a motion for dismissal of this claim, for which a hearing was held.
4. Appropriate notice of the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.
5. The evidence preponderates that the Respondents' motion to dismiss this claim for lack of prosecution is well founded, and should be hereby granted, *without prejudice*, per Ark. Code Ann. §11-9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)) to the refile of it within the limitation period specified by law.

ORDER

Based upon the foregoing findings, I have no alternative but to dismiss this claim for workers' compensation benefits. This dismissal is made pursuant to the provisions of Ark. Code Ann. §11-9-702, and Commission Rule 099.13(now codified at 11 C.A.R. § 25-110 (d)), *without prejudice* to the refiling of this claim within the limitation period specified under the Act.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge