

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H402779

SAMUEL GAMBLE, EMPLOYEE	CLAIMANT
DOMTAR CORPORATION, EMPLOYER	RESPONDENT
TRAVELERS CASUALTY INS. CO. OF AMERICA, CARRIER/TPA	RESPONDENT

OPINION FILED DECEMBER 10, 2025

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant represented by the Honorable Aaron L. Martin, Attorney at Law, Fayetteville, Arkansas. Mr. Martin waived his appearance at the hearing.

Respondents represented by the Honorable Guy Alton Wade, Attorney at Law, Little Rock, Arkansas.

Statement of the Case

A dismissal hearing was held on December 10, 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 instructed by law.

No testimony was taken.

The record consists of the transcript from the December 10, 2025, dismissal hearing and the documents held therein. Commission's Exhibit 1 consisting of two 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. Both exhibits were introduced into evidence without objection.

Background

The procedural history of this claim is as follows:

The Claimant's attorney filed a Form AR-C with the Commission on June 24, 2024, alleging that the Claimant sustained an accidental injury on April 17, 2024, while working for the respondent-employer. According to this document, the Claimant sustained multiple bodily injuries when he was hit by a train. Per the Form AR-C, the Claimant requested initial workers' compensation benefits in the form of temporary total disability compensation, temporary partial disability, permanent total disability benefits, an attorney's fee, and medical expenses.

On April 26, 2024, the Respondents' claim professional filed a Form AR-2, with the Commission denying compensability of the claim. Per this form, the Respondents controverted the claim on the grounds that the Claimant was not in the course and scope of his employment at the time of his accidental injury of April 17, 2024.

The Claimant has not requested a hearing since the filing of his Form AR-C on June 24, 2024. This filing clearly occurred more than six (6) months ago.

Subsequently, there was no action taken on the part of the Claimant to prosecute or otherwise pursue his workers' compensation claim. Hence, the Claimant has not made a bona fide request for a hearing since the filing of the Form AR-C in July 2024.

Therefore, on or about November 6, 2025, the Respondents filed a letter with the Commission stating: "Please accept this letter as the Respondents request for dismissal due to the lack of prosecution of this claim. Claimant has not requested a hearing or pursued this matter since

discovery responses were provided. By copy of this correspondence, I am notifying the Claimant of our motion.”

Subsequently, on November 10, 2025, my office sent a letter-notice to the Claimant and his attorney informing them of the Respondents’ motion to dismiss, and a deadline of twenty (20) days for filing a written response. The notice was sent to the Claimant’s attorney via e-mail. This letter was also sent to the Claimant by both first-class and certified mail. The information retrieved from the Postal Service shows that the letter sent to the Claimant via certified mail was delivered to his home. The return receipt request shows that the Claimant signed for delivery of the notice. Moreover, the letter-notice sent by way of first-class mail has not been returned to the Commission.

Per a Notice of Hearing generated on December 2, 2025, my office notified the parties that a hearing had been rescheduled on the Respondents’ motion to dismiss. Said dismissal hearing was set for December 10, 2025, in Little Rock, Arkansas. The Claimant and his attorney were made aware of the hearing via email and via the U.S. Postal Service.

On December 2, 2025, the Claimant’s attorney drafted the following email to the Commission: “Claimant has no objection to a dismissal without prejudice.”

Based on the foregoing, the evidence clearly preponderates that the Claimant received appropriate notice of the dismissal hearing.

A hearing was in fact conducted on the Respondents’ motion as scheduled. The Claimant’s attorney waived his appearance at the hearing. However, the Respondents appeared through their attorney.

At the hearing, 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’s attorney has indicated that he does not object to the case being dismissed

without prejudice. As such, The Respondents’ counsel moved that this claim be dismissed for failure to prosecute under Ark. Code Ann. §11-9-702 (Repl. 2012), and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)), *without prejudice*.

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(a)(4) provides:

If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within the limitation periods specified in subdivisions (a)(1)-(3) of this section.

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

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 workers’ compensation benefits, but he has failed to do so. Specifically, the Claimant has not requested a hearing since the filing of the Form AR-C in June 2024 which was done more than six (6) months ago. Moreover, there has been no bona fide action taken by the Claimant to pursue or

otherwise resolve his claim since the filing of it. Most significantly, the Claimant does not object to his claim being dismissed *without prejudice*.

Accordingly, the evidence preponderates that the Claimant has clearly failed to timely prosecute his claim for workers' compensation benefits. Additionally, the Claimant does not object to a dismissal *without prejudice*.

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 (Repl. 2012), and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)), this claim for workers' compensation benefits is hereby respectfully dismissed *without prejudice* to the refiling 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 filed a claim for workers' compensation benefits in June 2024. Since this time, the Claimant has not requested a hearing.
3. The Respondents filed with the Commission a motion for dismissal of this claim, for which a hearing was held. The Claimant does not object to a *dismissal without prejudice*.
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 a 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 refiling 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 it within the limitation period specified under the Act.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge