

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.:H400338

JAMES E. GEIGER,
EMPLOYEE

CLAIMANT

CITY OF HIGHLAND,
EMPLOYER

RESPONDENT

MUNICIPAL LEAGUE WORKERS'
COMPENSATION PROGRAM,
CARRIER/TPA

RESPONDENT

OPINION FILED AUGUST 14, 2025

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

The Claimant represented by the Honorable Kenneth J. Kieklak, Attorney at Law, Fayetteville, Arkansas. Mr. Kieklak waived his appearance at the hearing.

Respondents represented by the Honorable Mary K. Edwards, Attorney at Law, North Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on the Respondents' motion to dismiss this claim due to a lack of prosecution, on July 23, 2025, in this workers' compensation claim pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W. 3d 287 (2004). Here, the sole issue for determination is whether this claim should be dismissed due to the Claimant's failure to timely prosecute it under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and/or 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.

The record consists of the transcript of July 23, 2025, hearing and the documents held therein. Respondents' Exhibit 1 is a Documentary Exhibit made up of six numbered pages, and a cover sheet/Respondents' Non-Medical Exhibit Index for a total of seven pages.¹ Said exhibit was made a part of the record without objection.

No testimony was taken at the hearing.

Procedural History

On or about January 12, 2024, the Claimant's attorney filed a Form AR-C alleging that he sustained a compensable injury in the course and scope of his employment with the City of Highland on January 8, 2024. The Claimant alleged that he sustained injuries to his left shoulder, left knee and back, while directing traffic.

The Respondents accepted the claim and began paying benefits to and on behalf of the Claimant. Since the filing of the Form AR-C in January 2024, the Claimant has made no request for a hearing on the merits of his claim.

Subsequently, the parties reached a third-party settlement. On March 13, 2025, an order was entered approving the third-party claim.

Still, since this time, the Claimant has failed to make a request for a hearing and has not taken any affirmative action whatsoever to pursue his claim for workers' compensation benefits.

Therefore, the Respondents filed a Motion to Dismiss for Failure to Prosecute with the Commission on June 23, 2025, along with a certificate of service to the Claimant's attorney showing that a copy of this pleading was sent to him via email.

¹ Although the hearing transcript shows that Respondents' Exhibit 1 consists of seven pages; however, it has a cover sheet (which has been named "Respondents' Exhibit 1 Documentary Exhibit") and six numbered pages for a total of seven pages.

On June 24, 2025, my office sent a letter to the Claimant and his attorney letting them know about the motion for dismissal of his workers' compensation claim, along with a deadline of twenty days for filing a written objection/response.

The Claimant's attorney sent an email to the Commission on July 17, 2025, saying that the Claimant does not object to the motion to dismiss.

A hearing was conducted before the Commission, on the Respondents' motion to dismiss on July 23, 2025. During the hearing, counsel for the Respondents moved that this claim be dismissed due to a lack of prosecution under Ark. Code Ann. §11-9-702 and/or 11 C.A.R. §25-110 (d), without prejudice. Counsel specifically noted that the Claimant's attorney has consented to the dismissal and that a third-party agreement order has been entered in this claim.

Adjudication

The Arkansas Workers' Compensation Rule applicable in this motion for the dismissal of this claim outlined below:

11 C.A.R. §25-110(d) reads:

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 a 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)

Review of the records shows that more than six months have passed since the filing of this claim. However, since that time, the Claimant has failed to make a bona fide request for a hearing with respect to his claim for workers' compensation benefits. Hence, no probative action whatsoever has been put forth by the Claimant to pursue his claim.

Based on all the foregoing reasons, I am persuaded that the Claimant has had ample time to pursue this claim for workers' compensation benefits, but he has not done so. The issues have been resolved by a third-party agreement and the Claimant does not object to this claim being dismissed. Therefore, based on my review of the documentary evidence, and all other matters properly before the Commission, I find that the Respondents' motion to dismiss the within claim for workers' compensation benefits should be granted pursuant to the provisions of 11 C.A.R. §25-110(d). Accordingly, this claim is hereby respectfully dismissed *without prejudice* to the refiling of it within the limitation period specified by law.

Therefore, the issue of the dismissal of this pursuant to Ark. Code Ann. §11-9-702 (Repl. 2012) has been rendered moot.

Findings of Fact and Conclusions of Law

On the basis of 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 Respondents filed with the Commission a motion for dismissal of this claim due to a lack of prosecution, for which a hearing was held.
3. The Claimant has not requested a hearing since the filing of the Form AR-C more than six months ago. He does not object to his claim being dismissed. Hence, the evidence preponderates that the Claimant has failed to prosecute his claim for workers' compensation benefits.

4. Appropriate Notice of the dismissal hearing was attempted on all parties to their last known address, in the manner prescribed by law.
5. The Respondents' motion to dismiss this claim for a lack of prosecution is hereby granted, pursuant to 11 C.A.R. §25-110 (d), *without prejudice*, to the refiling of it within the limitation period specified by law.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, I find that per 11 C.A.R. §25-110 (d), this claim is hereby respectfully dismissed, *without prejudice*, to the refiling within the limitation period specified by law.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge