

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H105817

MARY GOODRICH, EMPLOYEE	CLAIMANT
PATHFINDER INC., EMPLOYER	RESPONDENT
ATA WORKERS' COMPENSATION/ RISK MANAGEMENT RESOURCES, CARRIER/TPA	RESPONDENT

OPINION FILED AUGUST 9, 2022

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas, on July 26, 2022.

Claimant is *Pro Se* and appeared on her own behalf.

Respondents are represented by Melissa Wood, Attorney-at-Law, of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on July 26, 2022, in Little Rock, Arkansas, on respondent's second Motion to Dismiss for Failure to Prosecute pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant contended she was injured on or about February 17, 2021, and this resulted in a left hip contusion, when she slipped and fell as provided in her Arkansas Form C filed on February 22, 2022. The respondents filed a Form 2 on or about July 23, 2021, denying the claim except for paying the medical for one trip to Concentra.

The respondents filed its first Motion to Dismiss for Failure to Prosecute providing that the claimant's discovery deposition had been scheduled for December 3, 2021, and the claimant did not appear for the scheduled deposition and consequently the respondents incurred an appearance fee in the amount of \$150.00. The claimant appeared at the hearing *pro se* on March 22, 2022, and was instructed that the matter would be taken under advisement for thirty (30) days and that she was required to be present for a deposition. The

respondents notified the Commission that the claimant did in fact appear for the deposition. Additionally, the respondents requested that deadlines be set for the matter to proceed.

The matter was scheduled twice for prehearing conferences with the appropriate notice on June 13, 2022, and then again on June 20, 2022, and the claimant failed to appear for both. She testified at the second Motion to Dismiss Hearing on July 26, 2022, that she overslept due to her work. The claimant has not sought any type of *bona fide* hearing before the Workers' Compensation Commission for the last six (6) months.

The second hearing for the Motion to Dismiss was set for July 26, 2022, as stated above. The claimant failed to file a response to the Motion to Dismiss but did appear at the time of the hearing. At the time of the hearing, Melissa Wood appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having had an opportunity to hear the statements of the respondent's attorney and the claimant, there is no alternative but to find that the Motion to Dismiss should be granted at this time, and the matter should be dismissed without prejudice.

ORDER

Pursuant to the above, there is no alternative but to find that the Motion to Dismiss should be granted and this matter should be dismissed without prejudice at this time.

IT IS SO ORDERED:

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE