

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
AWCC CLAIM NO.: G905694**

TERRY L. GOODWIN, Employee	CLAIMANT
NIBCO, INC., Employer	RESPONDENT
LIBERTY INSURANCE CORPORATION, Carrier	RESPONDENT

**OPINION AND ORDER FILED APRIL 13, 2022**

Hearing conducted before ADMINISTRATIVE LAW JUDGE TERRY DON LUCY, in Craighead County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: HONORABLE DAVID C. JONES; Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on March 25, 2022, with respect to the Respondents' Motion to Dismiss filed with the Commission on January 13, 2022. When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did he appear during the ensuing proceedings. (TR 4) The Respondents appeared through their counsel, the Honorable David C. Jones. During the proceedings, the Commission's file in this matter was deemed incorporated by reference into the record without objection for purposes of this Opinion and Order. (TR 4) In addition, Respondents' Exhibit No. 1 was likewise introduced into the record without objection. (TR 4-5)

The Commission's file reflects that notice of the Respondents' Motion was sent to the Claimant via certified and first-class mail from the Commission dated January 19, 2022, to his last known address, which allowed him until February 8, 2022, to respond to such. The Commission's file also reflects, in the form of records obtained from the United States' Postal Service, that such notice was received at the Claimant's last known address on January 24, 2022. However, the Commission's file reflects no response from the Claimant with respect to the

Respondents' Motion. (See also TR 5-6)

In addition, the Commission's file further reflects that notice of the hearing was likewise sent to the Claimant via certified and first-class mail from the Commission dated February 9, 2022, to the same last known address. Once again, by virtue of records received from United States' Postal Service, the Commission's file indicates that such notice was received at the Claimant's last known address on February 14, 2022. (See also TR 6-7)

As discussed on the record, there has been no Form AR-C filing in this matter and no formal hearing request to date, with the last payment of compensation appearing to have occurred on or about April 27, 2021. (See also RX 1 at 25) However, the Respondents filed their motion out of an abundance of caution given the Claimant's eventual retention of Missouri Counsel with respect to potential benefits available in that state and the corresponding potential for actions taken on his behalf in relation thereto to possibly imply a "claim" or ongoing jurisdictional issues in Arkansas. (See TR 7-17)

Apart from that, I am most persuaded by the fact that the Respondents' have filed the present Motion and that the Claimant, despite having obvious knowledge of such and the resulting hearing, has taken no utter no action to respond nor has he made any apparent effort to pursue additional benefits since the date of the last payment of compensation.

Consequently, given the Claimant's lack of response or objection to the Respondents' Motion, corresponding failure to appear at the hearing held on March 25, 2022, and apparent failure to request a hearing on the merits of this matter at any time since the date of the alleged injury of September 18, 2017, I specifically find that the Claimant has failed to prosecute the present matter in a timely fashion and that, to the extent that actions taken on his behalf thus far may be construed as a statutory claim for benefits, dismissal thereof without prejudice is

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warranted pursuant to Commission Rule 099.13, for lack of timely prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective March 25, 2022, and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

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TERRY DON LUCY  
Administrative Law Judge