

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H302588

MIKAEL GREEN, Employee

CLAIMANT

NICHOLS LOADING, INC., Employer

RESPONDENT

MISSOURI EMPLOYERS MUTUAL INS., Carrier/TPA

RESPONDENT

OPINION FILED NOVEMBER 5, 2024

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant represented by JACQUELINE MOCK, Attorney at Law, Fort Smith, Arkansas.

Respondent represented by GUY ALTON WADE, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

This case comes on for review following a hearing on respondents' Motion to Dismiss.

On May 25, 2023, the claimant's attorney, Mark Peoples, filed an AR-C requesting various compensation benefits in which he alleged a left ring finger amputation on or about April 11, 2023. The claim was accepted as compensable, and all related benefits were paid.

On August 29, 2023, the claimant emailed the Commission requesting Mr. Peoples be removed as his attorney, and on August 30, 2023, that request was granted. The claimant retained the services of Jacqueline Mock, and no further action was taken regarding this claim.

On June 18, 2024, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for October 10, 2024. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on September 4, 2024. United States Postal Department records indicate that claimant received and signed for the notice

on September 11, 2024. Due to a scheduling conflict the hearing was rescheduled to October 17, 2024, and notice of that hearing was sent to the claimant by certified mail, return receipt requested on October 4, 2024. United States Postal Department records indicate that on October 10, 2024, delivery was attempted but no authorized recipient was available. Claimant did not appear at the scheduled hearing. Claimant's attorney did appear at the hearing and set forth that she had no objection to the dismissal of the claimant's claim as all appropriate benefits had been paid.

After my review of the respondents' Motion to Dismiss, the claimant's attorney's agreement to the dismissal, and all other matters properly before the Commission, I find that respondents' Motion to Dismiss this claim should be and hereby is granted pursuant to Commission Rule 099.13. This dismissal is without prejudice.

ORDER

Pursuant to the above statement of the case and Commission Rule 099.13, I have no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

If respondents have not already done so, they are directed to pay the court reporter, Veronica Lane, her fees and expenses within thirty (30) days of receipt of her invoice.

IT IS SO ORDERED.

**ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**