

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H207016**

**RICK D. HAMPTON,
EMPLOYEE**

CLAIMANT

**MILLER COUNTY JUDGE,
EMPLOYER**

RESPONDENT

**ASS'N OF ARKANSAS COUNTIES WORKERS'
COMPENSATION TRUST/
AAC RISK MG'T SERVICES, INC.
INSURANCE CARRIER/TPA**

RESPONDENT

OPINION AND ORDER FILED MARCH 28, 2023
HOLDING RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE IN
ABEYANCE FOR 30 DAYS

Hearing conducted on Friday, March 28, 2023, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Texarkana, Miller County, Arkansas.

The claimant, Mr. Rick D. Hampton, pro se, of Fort Smith, Sebastian County, Arkansas, appeared in person at the hearing.

The respondents were represented by the Honorable Jason M. Ryburn, Ryburn Law Firm, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Friday, March 24, 2023, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2022 Lexis Replacement) and Commission Rule 099.13 (2022 Lexis Repl.). The respondents filed a motion to dismiss with the Commission on February 1, 2023, requesting this claim be dismissed without prejudice for lack of prosecution.

In accordance with applicable Arkansas law, the claimant was mailed due and proper legal notice of both the respondents' motion to dismiss as well as a copy of the hearing notice at his current addresses of record via the United States Postal Service (USPS), First Class Certified Mail, and he appeared in person, pro se, at the subject hearing. The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission's entire file in this matter by reference.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' motion to dismiss. The claimant and the respondents' attorney took the opportunity to visit in person before the hearing. The parties agreed on the record that it appears the only two (2) outstanding issues to be resolved are the payment of some outstanding mileage expenses, and a medical bill(s).

Consequently, both the claimant and the respondents' attorney agreed that, once these outstanding issues are resolved, the claim may be dismissed pursuant to the parties' mutual agreement. The parties requested an additional 30 days, or until Tuesday, April 25, 2023, to resolve these issues. The parties will advise the ALJ on or before this date as to whether the issues have been resolved. If they have been resolved as expected, the ALJ will draft and enter an opinion order of dismissal without prejudice, without the necessity of the respondents' having to draft and file another motion, and without the necessity of the ALJ conducting another hearing on the respondents' MTD. If the issues have not been resolved, the parties may request additional time to resolve them, if needed, or may ask for any and all other appropriate Commission action or relief as may be appropriate.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, and as I advised the parties on the record at the hearing, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. The ALJ will hold in abeyance a decision on the respondents' subject motion to dismiss without prejudice for a period of 30 days, or until Tuesday, April 25, 2023.
3. The parties have 30 days from the hearing date, or until Tuesday, April 25, 2023, to obtain any and all additional information they require and to resolve the aforementioned issues.
4. The parties shall advise the ALJ on or before Tuesday, April 25, 2023, whether the subject issues have been resolved. If the parties have in fact resolved the outstanding issues the ALJ shall grant the respondents' motion to dismiss filed February 1, 2023, without prejudice pursuant to the parties' mutual agreement on the hearing record without the necessity of either the respondents filing another motion, and without the necessity of the Commission holding another hearing on the motion.
5. If the parties have not resolved the issues by the agreed deadline they may request additional time to do so, or may request any and all other appropriate Commission action and/or relief as may be deemed necessary under the circumstances.

If they have not already done so, the respondents shall pay the court reporter's invoice within twenty (20) days of the filing of this opinion and order.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp

