BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H507030

NOLAN HARDNETT,
EMPLOYEE CLAIMANT

DOCKERY MASONRY, INC.,
EMPLOYER RESPONDENT

MARKEL SERVICES, INC.,
CARRIER/TPA RESPONDENT

OPINION FILED AUGUST 7, 2026

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

Claimant, *Pro Se,* failed to appear.

Respondents represented by Mr. Randy P. Murphy, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on August 4, 2026, in the present matter pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether the above-referenced claim should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 and 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 the August 4, 2026, hearing and the documents contained therein. In that regard, Commission's Exhibit 1 includes fourteen pages; and Respondents' Exhibit 1 encompassing only three pages.

No testimony was taken.

BACKGROUND

On November 3, 2025, the Claimant filed a Form alleging that he was rendered permanently and totally disabled due to a November 26, 2024, work-related injury during and in the course and scope of his employment with the above referenced employer, Dockery Masonry.

The respondent-insurance-carrier filed a Form AR-2 with the Commission on November 18, 2025, wherein they denied compensability of the within claim.

On May 19, 2026, the Respondents filed a *Motion to Dismiss for Failure to Prosecute*. My office sent a letter to the Claimant on May 26, 2026, giving him twenty days to respond to the Respondents' motion and/or ask for a hearing on the merits. This notice was sent by both regular and certified mail via the United States Postal Service by way of.

However, there was no response from the Claimant.

The Claimant sent a letter to my office on May 26, 2026, asking for a hearing on his claim. Therefore, the hearing process was initiated. However, the Claimant did not complete the prehearing documents in a timely fashion. This resulted in the file being returned to the Commission's general files.

Therefore, on June 29, 2026, the Respondents renewed their motion per an e-mail to the Commission. I sent another letter to the Claimant on June 29, 2026, giving him twenty days to respond to the Respondents' motion.

There was no response from the Claimant. Information received from the Postal Service shows that they delivered the letter sent via certified mail to the Claimant on July 2. The scanned image of the recipient's information sheet bears the Claimant's signature.

Consequently, there was no response from the Claimant.

Therefore, a Notice of Hearing was mailed to the parties on June 29, 2026. At that time, the case was set for a hearing on the Respondents' motion to dismiss. Said dismissal hearing was scheduled for August 4, 2026, at the Arkansas Workers' Compensation Commission, in Little Rock, Arkansas. The notice was sent to the Claimant via the Postal Service by both regular and certified mail.

Thus far, there has been no response from the Claimant. The hearing notice sent to the Claimant via regular mail has not been returned to the Commission to date. This evidence leads me to conclude that the Claimant received proper notice of the dismissal hearing.

The dismissal hearing was in fact held on the Respondents' *Motion to Dismiss for Failure to Prosecute*. Despite having received proper notice of the hearing, the Claimant did not appear to oppose the motion for dismissal of his claim for workers' compensation benefits. However, the Respondents appeared through their attorney. The Respondents' attorney moved that the claim be dismissed for a lack of prosecution.

DISCUSSION

The statutory provisions and Commission Rule applicable to this claim currently are outlined below.

Specifically, Ark. Code Ann. §11-9-702(a)(4) (Repl. 2012) provides:

> If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within the limitation periods specified in subdivisions (a)(1)-(3) of this section.

Additionally, Ark. Code Ann. §11-9-702(d) (Repl. 2012) provides:

> If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, if necessary, be dismissed without prejudice

> to the refiling of the claim within the limitation period specified in subsection (b) of this section.
>
> Moreover, Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110) 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 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)

My review of the evidence in this matter shows that the Claimant has failed to make *a bona fide request for a hearing* with respect to his claim for workers' compensation benefits, which was filed in November 2025. Hence, said filing of this claim for compensation was clearly done more than six months ago. In fact, the Claimant did not appear at the hearing to object to the motion to dismiss after having received proper notification of the hearing. Although the Claimant previously asked for a hearing on his claim, he did not complete the necessary preliminary documents to start the hearing process.

Considering all the foregoing evidence, I am compelled to conclude that the Claimant has failed to timely prosecute his claim for workers' compensation benefits.

Therefore, based on all the stated reasons, I find that the Respondents' motion to dismiss this claim for want of prosecution is warranted pursuant to 11 C.A.R. §25-110 (d) (formerly Commission Rule 099.13). Hence, this claim is hereby respectfully dismissed due to a lack of prosecution. Said dismissal is *without prejudice*, subject to the refiling of this claim within the limitation period specified by law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on 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 Claimant filed a claim in this matter per a Form AR-C in November 2025, which was clearly more than six months ago. Since this time, the Claimant has failed to prosecute his claim for workers' compensation benefits. Hence, *no bona fide request for a hearing* has been made by the Claimant.

3. Appropriate Notice for the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.

4. The evidence proves that the Claimant has failed to prosecute his claim.

5. That the Respondents' motion to dismiss this claim for a lack of prosecution is hereby granted, per 11 C.A.R. §25-110 (d) (formerly Rule 099.13 of the Commission), *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 pursuant to 11 C.A.R. §25-110 (previously Rule 099.13 of the Commission), this claim is hereby respectfully dismissed, *without prejudice*, to the refiling of it within the limitation period specified by law.

IT IS SO ORDERED.

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CHANDRA L. BLACK
Administrative Law Judge