

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H206967**

**ENGRID HARRIS,
EMPLOYEE**

CLAIMANT

**BIOMAT USA, INC.,
EMPLOYER**

RESPONDENT

**FARMINGTON CASUALTY CO./
TRAVELERS INDEMNITY CO.
INSURANCE CARRIER/TPA**

RESPONDENT

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED MARCH 28, 2024**

Hearing conducted on Tuesday, March 26, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Ms. Engrid Harris, pro se, of Little Rock, Pulaski County, Arkansas, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Guy Alton Wade, Friday, Eldredge & Clark, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Tuesday, March 26, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2023 Lexis Replacement) and Commission Rule 099.13 (2023 Lexis Replacement).

The respondents filed a letter motion to dismiss without prejudice (MTD) with the Commission on November 3, 2023, requesting this claim be dismissed without prejudice for lack of prosecution. Consistent with the applicable Arkansas law, thereafter the Commission mailed a copy of both the respondents' MTD and the subject hearing notice to the claimant via the United States Postal Service (USPS), Certified Mail, Return Receipt Requested, to her last known address of record with the Commission. (Commission Exhibit 1; Respondents' Exhibit 1). Thereafter, the

claimant failed and/or refused to respond in any way to either the Commission or to the respondents; and she failed and/or refused to appear at the subject hearing. The claimant never objected in any way to the respondents' MTD.

The claimant had at one time been represented by counsel, Ms. Laura Beth York, of the Rainwater, Holt & Sexton law firm. By letter dated and filed with the Commission on October 6, 2023, the claimant's attorney filed a letter motion to be relieved as the claimant's counsel. The Full Commission granted the claimant's attorney's request to be relieved as counsel via an order filed October 24, 2023. (RX1).

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2022 Lexis Repl.), 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 parties' joint MTD. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively demonstrates the claimant has both failed and/or refused to prosecute her claim, and she has failed and/or refused to request a hearing within the last six (6) months.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After the Commission mailed due and legal notice of both the respondents' letter

MTD filed with the Commission on November 3, 2023, as well as a copy of the notice for the subject hearing to the claimant's last known address of record with the Commission, the claimant failed and/or refused to respond to the MTD in any way; or to object to the subject MTD; or to request a hearing.

3. Moreover, the claimant failed and/or refused to appear at the subject hearing and, therefore, has waived her right to a hearing on the MTD.
4. The claimant has failed to request a hearing on the merits of her claim within the last six (6) months.
5. Therefore, the respondents' letter MTD filed with the Commission on November 3, 2023, should be and hereby is GRANTED.
6. This claim is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b), and Commission Rule 099.13.

This opinion and order shall *not* be construed to prohibit the claimant, her attorney, any attorney she may retain in the future, or anyone acting legally and on her behalf from refiling this claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

The respondents shall pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp