

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No H303440

GREGORY L. HARRIS, EMPLOYEE

CLAIMANT

CITY OF DERMOTT, EMPLOYER

RESPONDENT

ARKANSAS MUNICIPAL LEAGUE, CARRIER/TPA

RESPONDENT

OPINION FILED 23 FEBRUARY 2024

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 22 February 2024, in McGehee, Desha County, Arkansas.

The *pro se* claimant did not appear.

Ms. Melissa Wood, Attorney-at-Law, Worley, Wood & Parrish, PA, of Little Rock, Arkansas, appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in McGehee, Arkansas, on 22 February 2024. This case relates to an alleged workplace injury by way of a gunshot sustained on or about 8 May 2023, with a Form AR-C eventually filed on the claimant's behalf by counsel on 26 May 2023. A Form AR-2 was filed on 7 June 2023 denying the claim as "personal in nature." A First Report of Injury form was filed the following day noting "altercation with a non-employee and he got shot."

Claimant's attorney, Mark Peoples, filed with the Commission a Motion to Withdraw on 9 August 2023, citing "differences of opinion regarding prosecution of the claim," and the Full Commission granted that Motion on 25 August 2023.

The respondents filed the immediate Motion to Dismiss for Failure to Prosecute on 5 December 2023, stating that the claimant had not sought a *bona fide* hearing on any matter at controversy in the six (6) months preceding that filing.

A hearing was set on the Motion, and the claimant did not file an objection to the dismissal or appear at the hearing to argue against the respondents' Motion. The respondents appeared, presented their Motion, and offered supporting evidence into the record. As argued by the respondents at the hearing, the file reflects no request for a hearing on the claim in the relevant time preceding the filing of their Motion.

Arkansas Code Annotated § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six (6) months without a *bona fide* request for a hearing. Commission Rule 099.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

VI. ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE