

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.:H504681

CHRIS W. HELMS,
EMPLOYEE

CLAIMANT

RISTORANTE CAPEO,
EMPLOYER

RESPONDENT

FIRSTCOMP INSURANCE
CO./MARKEL SERVICES INC.,
CARRIER/TPA

RESPONDENT

OPINION FILED APRIL 13, 2026

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

The Claimant, pro se/unrepresented did not appear at the hearing.

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

STATEMENT OF THE CASE

On April 8, 2026, a hearing was held on the Respondents' motion to dismiss this claim for Arkansas workers' compensation benefits due to a lack of prosecution, pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W. 3d 287 (2004). Here, the sole issue for determination is whether this claim should be dismissed due to the Claimant's failure to timely prosecute it under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and/or Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)).

Appropriate Notice of this hearing was had on all parties to their last known address, in the manner established by law.

The record consists of the transcript of April 8, 2026, hearing and the documents held therein. Specifically, Commission's Exhibit 1 includes four pages of notices from the

Commission, the United States Postal Service, and a copy of the Form AR-2; and Respondents' Exhibit 1 consisting of a Documentary Exhibit made up of three pages which include the Respondents' Motion to Dismiss for Failure to Prosecute, and the Form AR-C. Said exhibits were made a part of the record without objection.

No testimony was taken at the hearing.

Procedural History

On or about July 28, 2025, the Claimant filed a Form AR-C alleging that he sustained a compensable injury in the course and scope of his employment with the respondent-employer on May 20, 2025. The Claimant alleged that he sustained an accidental injury to his right ankle. Per this document, the Claimant asserted his entitlement to both initial and additional workers' compensation benefits.

Pursuant to a Form AR-2 filed by the Respondents with the Commission on August 15, 2025, they controverted the claim in its entirety. Specifically, the Respondents stated: "Denied in full no accident no injury."

Since the filing of the Form AR-C in July 2025, the Claimant has made no bona fide request for a hearing on the merits of his claim. Moreover, the Claimant has taken no affirmative action whatsoever to pursue or resolve his claim for workers' compensation benefits.

Therefore, the Respondents filed a *Motion to Dismiss for Failure to Prosecute* with the Commission on February 5, 2026, along with a certificate of service to the Claimant showing that a copy of this pleading was sent to him via email.

On February 6, 2026, my office sent a letter to the Claimant informing him about the motion for dismissal of his workers' compensation claim, along with a deadline of twenty days for filing a written objection/response. This correspondence was sent by way of both first-class and

certified mail. Per information received from the United States Postal Service, they delivered the notice to the Claimant's residence listed with the Commission. However, the signature of the recipient taking delivery of this letter is illegible. The letter sent via regular mail has not been returned to the Commission.

Per a Notice of Hearing generated on February 27, 2026, my office notified the parties that a hearing had been scheduled on the Respondents' motion to dismiss. Said dismissal hearing was scheduled for Wednesday, April 8, 2026, at 12:30 p.m., at the Arkansas Workers' Compensation Commission, in Little Rock, Arkansas. Said hearing notice was sent via first-class and certified mail.

My review of the tracking information received from the U.S. Postal Service confirms that the hearing notice sent to the Claimant via certified mail was delivered to his home and left with an individual on March 2, 2026. Again, the individual's signature appearing on the return receipt is illegible. Nevertheless, the hearing notice sent to the Claimant via first-class mail has not been returned to the Commission. Under these circumstances, I find that the Claimant received proper notice of the hearing.

Therefore, a hearing was conducted before the Commission, on the Respondents' motion to dismiss on April 8, 2026. The Claimant did not appear at the hearing. However, the Respondents' attorney appeared for the hearing.

During the hearing, counsel for the Respondents moved that this claim be dismissed due to a lack of prosecution under Ark. Code Ann. §11-9-702 and/or 11 C.A.R. §25-110 (d), without prejudice. Counsel specifically noted that the Claimant has not requested a hearing on his claim since the filing of the Form AR-C in July 2025.

Adjudication

Therefore, the statutory provisions and Arkansas Workers' Compensation Rule applicable in the Respondents' request for dismissal of this claim are outlined below:

Specifically, Ark. Code Ann. §11-9-702(a)(4) 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) 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.

Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d), reads as follows: 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 a 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 records in this matter shows that more than six months have passed since the filing of this claim, which was done in July 2025. However, since that time, the Claimant has failed to make a bona fide request for a hearing with respect to his claim for workers' compensation benefits, which is clearly more than six months ago. In fact, no probative action whatsoever has

been put forth by the Claimant to pursue his claim. Moreover, the Claimant has failed to respond to the notices of this Commission.

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

Based on all the aforementioned reasons, I find that the Respondents' motion to dismiss this claim is warranted. Therefore, pursuant to Ark. Code Ann. §11-9-702 (Repl. 2012) and Commission Rule 099.13, this claim for both initial and additional benefits is hereby respectfully dismissed for want of prosecution. Said dismissal is *without prejudice*, to the refile of this claim within the limitation period specified by law.

Findings of Fact and Conclusions of Law

On the basis of 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 has not requested a hearing since the filing of the Form AR-C (which was done more than six months ago), nor has he taken any affirmative action to resolve his claim.
3. The Respondents filed with the Commission a motion for dismissal of this claim due to a lack of prosecution, for which a hearing was held.
4. Proper Notice of the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.
5. The Claimant did not appear at the hearing to object to his claim being dismissed despite having received notice of the hearing. Nor did he respond to the notices of this Commission.
6. Hence, the evidence preponderates that the Claimant has failed to prosecute his claim for workers' compensation benefits. Moreover, the evidence before me shows that the Claimant has abandoned the within claim.

7. The Respondents' motion to dismiss this claim due to a lack of prosecution is hereby granted, pursuant to the provisions of Ark. Code Ann. §11-9-702 and 11 C.A.R. §25-110 (d), *without prejudice*, to the refiling of it within the limitation period specified by law.

ORDER

Based upon the foregoing findings, I have no alternative but to dismiss this claim for workers' compensation benefits due to a lack of prosecution. This dismissal is pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13(now codified at 11 C.A.R. §25-110 (d)) *without prejudice* to the refiling of this claim within the limitation period specified under the Act.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge