

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H103381

BRANDON HOFFMAN, EMPLOYEE

CLAIMANT

CORMIER RICE MILLING CO., INC., EMPLOYER

RESPONDENT

**BRIDGEFIELD CASUALTY INS. CO./
SUMMIT CONSULTING, LLC, CARRIER/TPA**

RESPONDENT

OPINION FILED DECEMBER 17, 2021

A hearing was held before ADMINISTRATIVE LAW JUDGE KATIE ANDERSON, in Pine Bluff, Jefferson County, Arkansas.

Claimant, Mr. Brandon Hoffman, *pro se*, failed to appear at the hearing.

Respondents were represented by Mr. Jason Ryburn, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on December 16, 2021, 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 matter 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.

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

The record consists of the transcript of the December 16, 2021, hearing and the documents contained therein. The remainder of the Commission's file has also been made a part of the record. It is hereby incorporated by reference.

DISCUSSION

Claimant alleged that he suffered a compensable injury to his back, spine, and legs on March 3, 2021, while working for Respondent-Employer. A Form AR-C, dated April 12, 2021,

was filed with the Commission by Claimant's previous counsel. Per this form, Claimant asserted an accident date of March 3, 2021, and asserted his entitlement to all potential workers' compensation benefits. In the Form AR-C, Claimant's cause of injury was described as follows, "Injury to multiple body parts, including but not necessarily limited to, back, spine, and legs."

Respondent-Insurance-Carrier filed a Form AR-2 with the Commission on April 19, 2021, denying the claim in its entirety.

On June 9, 2021, Claimant's attorney of record filed a Motion to Withdraw as counsel, which was granted by the Full Commission on June 23, 2021.

On October 5, 2021, Respondents filed a Motion to Dismiss requesting dismissal for failure to prosecute, along with a Certificate of Service to Claimant. On October 14, 2021, the Commission sent a Notice to Claimant advising him of Respondents' Motion and a deadline for filing a written response. However, there was no response from Claimant regarding this correspondence.

Pursuant to a Hearing Notice dated November 4, 2021, the Commission advised the parties that the matter had been set for a hearing on Respondents' Motion to Dismiss for Failure to Prosecute. Said hearing was scheduled for December 16, 2021, at 1:00 p.m., at the Federal Building (Post Office Building), Room 3611, 100 East 8th Street, Pine Bluff, Arkansas. United States Postal Service records indicated that the Hearing Notice, sent via First-Class Mail and Certified Mail to Claimant's address, was returned unclaimed on November 23, 2021.

Therefore, a hearing was in fact conducted as scheduled on Respondents' request for dismissal. Respondents appeared through their attorney; however, Claimant failed to appear at the hearing.

At the time of the hearing, counsel advised that Claimant had not taken any action in the matter and had not sought any type of *bona fide* hearing before the Workers' Compensation Commission since he filed the Form AR-C. As such, counsel requested that the claim be dismissed, without prejudice, pursuant to Ark. Code Ann. § 11-9-702 and our Rule 099.13.

A review of the evidence shows that Claimant has had sufficient time to pursue his claim for workers' compensation benefits. It has been more than eight (8) months since Claimant filed a Form AR-C in this matter, and to date, Claimant has not requested a *bona fide* hearing or otherwise attempted to prosecute his claim. Hence, Claimant has failed to timely prosecute his claim for workers' compensation benefits.

Therefore, after consideration of the evidence presented, I find Respondents' Motion for the dismissal of this claim to be well supported. Furthermore, I find that pursuant to Ark. Code Ann. § 11-9-702 and Commission Rule 099.13, this claim for additional benefits should be dismissed, without prejudice, to the refiling within the applicable time period.

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.

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. Claimant alleged that he suffered a compensable injury to his back, spine, and legs on March 3, 2021, while working for Respondent-Employer.
3. On April 12, 2021, a Claimant's previous counsel filed a Form AR-C with the Commission seeking all workers' compensation benefits in this matter.
4. Respondent-Insurance-Carrier filed a Form AR-2 with the Commission on April 19, 2021, denying the claim in its entirety.
5. On June 9, 2021, Claimant's attorney of record filed a Motion to Withdraw as counsel, which was granted by the Full Commission on June 23, 2021.

6. Respondents filed a Motion to Dismiss requesting dismissal for failure to prosecute on October 5, 2021.
7. Approximately eight (8) months have passed since Claimant filed a Form AR-C with the Commission. However, since this time Claimant has failed to make a *bona fide* request for a hearing or otherwise resolve his claim for workers' compensation benefits.
8. Claimant has had ample opportunity to pursue this claim for workers' compensation benefits, but no action has been taken by Claimant in furtherance of his claim, as he has failed to timely prosecute this matter.
9. Respondents' Motion to Dismiss for Failure to Prosecute is well founded.
10. Respondents' Motion to Dismiss for Failure to Prosecute should be granted pursuant to Ark. Code Ann. § 11-9-702 and Commission Rule 099.13, without prejudice, to the refiling of the claim within the applicable time period.
11. Appropriate Notice of this hearing was had on all parties to their last known address in the manner prescribed by law.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, this claim is hereby dismissed pursuant to Ark. Code Ann. § 11-9-702 and Commission Rule 099.13, without prejudice, to the refiling of this claim within the applicable time period.

IT IS SO ORDERED.

KATIE ANDERSON
ADMINISTRATIVE LAW JUDGE