

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H104962**

TIMOTHY J. HORTON, EMPLOYEE

CLAIMANT

WT TRANSPORTATION, LLC, EMPLOYER

RESPONDENT

**NATIONAL LIABILITY & FIRE INS. CO. OF
MIDWESTERN INSURANCE ALLIANCE,
INSURANCE CARRIER/TPA**

RESPONDENT

OPINION FILED DECEMBER 16, 2021

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas.

Claimant is *pro se* and failed to appear.

Respondents are represented by their attorney, Randy P. Murphy, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on December 7, 2021, in Little Rock, Arkansas, on the respondents' Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was originally represented by Neal H. Hart, who was allowed to withdraw from the case by an Order from the Full Commission dated September 15, 2021. The claimant was *pro se* at the time of the hearing and failed to appear. The respondents denied the claim in its entirety. At no time has the claimant made a formal request for a hearing, with the Form AR-2 providing that the injury occurred on June 2, 2021. Six (6) months have passed since the date of injury. A Motion to Dismiss was filed on or about October 6, 2021.

An appropriate notice setting this matter for a hearing for a Motion to Dismiss was provided to the claimant by both certified and regular mail. A hearing was set for

December 5, 2021, in regard to the Motion to Dismiss. The claimant did not file a response and failed to appear on the hearing date in Little Rock, Arkansas. At the time of the hearing, Randy P. Murphy appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondents, there is no alternative but to find that this matter should be dismissed for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

**JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE**