

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H505685**

**DANIEL J. HAVENS,
EMPLOYEE**

CLAIMANT

**TRI COUNTY REGIONAL SOLID WASTE,
EMPLOYER**

RESPONDENT

**ASSOCIATION OF ARKANSAS COUNTIES
WCT, CARRIER/AAC RISK MANAGEMENT
SERVICES, TPA**

RESPONDENT

OPINION FILED JUNE 30, 2026

Hearing conducted on Friday, May 29, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Batesville, Sharp County, Arkansas.

The Claimant, Mr. Daniel J. Havens, *Pro Se*, of Cave City, Arkansas.

The Respondents were represented by Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on March 9, 2026. A hearing on the motion was conducted on May 29, 2026, in Batesville, Arkansas. Claimant, according to Commission file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a driver. The date for Claimant's alleged injury was on August 14, 2025. He reported his injury to Respondent/Employer on the same day. Admitted into the record was Respondents' Exhibit 1, pleadings, and correspondence, consisting of 10 pages, Commission Ex. 1, pleadings, correspondence, and U.S. Mail return receipts, consisting of 5 pages, *as discussed infra*.

The record reflects on September 4, 2025, a Form AR-C was filed with the Commission by Claimant purporting that while lifting an air conditioner he sustained a hernia injury. On September 9, 2025, a Form AR-1 was filed with the Commission reiterating how the injury purportedly happened. On September 9, 2025, a Form AR-2 was filed by Respondents denying compensability under the theory that the Claimant was not an employee.

On March 9, 2026, Respondents' counsel filed a Motion to Dismiss due to Claimant's failure to prosecute his claim. The Claimant was sent, on March 10, 2026, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to his last known address. The certified motion notice was claimed by Claimant on April 13, 2026, per return receipt. This notice was also sent regular U.S. Mail and did not return to the Commission. The Claimant did not respond to the Motion, in writing, as required. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on April 29, 2026. The certified notice was claimed on May 1, 2026, per return receipt. The hearing notice sent regular First-Class was not returned to the Commission. The hearing took place on May 29, 2026. And as mentioned before, the Claimant did not show up to the hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, 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 Commission has jurisdiction over this claim.

2. The Claimant and Respondents both had reasonable notice of the May 29, 2026, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under 11 CAR §25-110(d) [formerly AWCC Rule 099.13].
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

11 CAR §25-110(d) provides:

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.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with 11 CAR §25-110(d), the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. The certified hearing notice was claimed by Claimant, per the return postal notice bearing the May 1, 2026, date. The hearing notice sent regular First-Class mail was not returned to the Commission. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

Also 11 CAR §25-110(d) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed his Form AR-C on September 4, 2025. Since then, he has failed to request a bona fide hearing. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute his claim by failing to request a hearing. Thus, Respondents' Motion to Dismiss should be granted.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge