

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H103379

ROY JOSENERGER, Employee

CLAIMANT

WASTE MANAGEMENT, Employer

RESPONDENT

INDEMNITY INS NORTH AMERICA, Carrier/TPA

RESPONDENT

OPINION FILED NOVEMBER 8, 2022

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant not represented by counsel and not appearing at hearing.

Respondent represented by, MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

This case comes on for review following a hearing on respondents' Motion to Dismiss.

On April 12, 2021, the claimant filed an AR-C requesting various compensation benefits. The claim was controverted in its entirety. The claimant then obtained representation by Jarid Kinder, who filed another AR-C on August 18, 2021. Mr. Kinder later was allowed to withdraw as the attorney of record for the claimant by Commission Order dated July 26, 2022. There has been no request for a hearing or additional activity by the claimant since the filing of the Form AR-C on August 18, 2021.

On July 28, 2022, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for October 13, 2022. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on August 5, 2022. United States Postal Department records indicate that claimant received and signed for the notice

on August 15, 2022. Despite having received notice of the scheduled hearing, the claimant failed to appear at the hearing and has failed to respond to the motion in any form or manner.

After a review of the respondents' Motion to Dismiss, the claimant's lack of response thereto and his failure to appear at the scheduled hearing, as well as all other matters properly before the Commission, I find that the respondents' Motion to Dismiss should and hereby is granted pursuant to Commission Rule 099.13. This dismissal is without prejudice.

IT IS SO ORDERED.

ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE