

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H502061

BRITTANY KANU,  
EMPLOYEE

CLAIMANT

UNIVERSITY OF ARKANSAS FOR MEDICAL  
SCIENCES/UAMS,  
EMPLOYER

RESPONDENT

PUBLIC EMPLOYEE CLAIMS DIVISION,  
CARRIER/TPA

RESPONDENT

OPINION FILED SEPTEMBER 18, 2025

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

Claimant/Pro Se failed to appear at the hearing.

Respondents represented by The Honorable Robert H. Montgomery, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was held on the Respondents' motion to dismiss want of prosecution, on August 27, 2025, this claim for workers' compensation benefits 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 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)).

The record consists of the hearing transcript of the August 27, 2025. The Respondents offered into evidence one exhibit, a Respondents' Documentary Exhibit, consisting of eleven (11) numbered pages, and a cover sheet for a total of twelve (12) pages. Said exhibit was marked Respondents' Exhibit 1. Also, Commission's Exhibit 1 encompasses a Documentary Exhibit

totaling five (5) pages was admitted into evidence. Both exhibits were introduced into evidence without objection.

No testimony was taken at the hearing.

### **DISCUSSION**

The Claimant alleged that she sustained a compensable injury while working for the respondent-employer on or about December 4, 2024. She alleged that she sustained an alleged injury due to exposure to dust.

On or about April 3, 2025, the Respondents filed a Form AR-2 with the Commission controverting this claim. Specifically, the Respondents asserted: “Respondents are denying claim because there are no objective medical findings of an injury.”

Since the assertion of an injury, the Claimant has failed to make a bona fide request for a hearing on the merits before the Commission in this matter. Hence, the Claimant has continued to not prosecute or otherwise pursue her claim. However, she requested a hearing and then she withdrew her request for a hearing on July 9, 2025. The Claimant stated that she does not wish to continue with the claim because she has not been able to retain legal counsel.

On July 22, 2025, the Respondent filed with the Commission, a Motion to Dismiss, with a certificate of service to the Claimant. Per this document, the Respondents certified that they had served a copy of the foregoing pleading to the Claimant by electronic mail.

Therefore, on July 24, 2025, my office sent a Notice of Hearing to the parties letting them know that a hearing was scheduled for Wednesday, at 1:30 p.m., on August 27, 2025, on the Respondents’ motion to dismiss. Said hearing was scheduled to be held at the Commission, in Little Rock.

A hearing was held on the Respondents' motion for dismissal as scheduled. During the hearing, counsel for the Respondents moved that the claim be dismissed due to a lack of prosecution under the provisions of Ark. Code Ann. §11-9-702 and Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)).

Although the Claimant did not file a formal claim via a Form AR-C, I find that her letter wherein she asked for a hearing is sufficient to establish a claim for initial workers' compensation benefits.

Nevertheless, my review of the record shows that more than six (6) months have passed subsequent to the filing of the Form AR-C for a claim of workers' compensation benefits. However, despite being given proper notice of the dismissal hearing in the manner prescribed under the law, the Claimant did not appear at the hearing to object to the dismissal of her claim after indicating that she wishes to have it dismissed.

Under these circumstances, I am persuaded that the Claimant has had ample time to pursue her claim for benefits; but she has failed to do so. Therefore, based on my review of the documentary evidence, and all other matters properly before the Commission, I find that the Respondents' motion to dismiss the within claim should be granted pursuant to Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)).

Accordingly, this claim is hereby dismissed without prejudice, to the refile of it 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 filed a letter claim for Arkansas workers' compensation benefits.
3. Since this time, the Claimant has asked that her claim be dismissed.
4. On July 22, 2025, the Respondents filed with the Commission a Motion to Dismiss.
5. After notice of hearing was given to the parties in the manner as prescribed by law, a hearing was held on the Respondents' motion to dismiss. However, the Claimant did not appear at the hearing to object to her claim being dismissed and she has asked that her claim be dismissed.
6. Notice of the hearing was tried on all the parties in the manner prescribed by law.
7. That the Respondents' motion to dismiss is hereby granted pursuant to the provisions of Commission Rule 099.13 (now codified at 11 C.A. R. § 25-110 (d)), without prejudice, to the refiling of the claim within the specified limitation period.

**ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, I find that pursuant to Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)). This claim is hereby dismissed without prejudice, to the refiling within the limitation period specified by law.

**IT IS SO ORDERED.**

---

**CHANDRA L. BLACK**  
**Administrative Law Judge**