

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO.: G903843**

DIANNE LOGAN, Employee	CLAIMANT
ARKANSAS DEPARTMENT OF HUMAN SERVICES, Employer	RESPONDENT NO. 1
PUBLIC EMPLOYEE CLAIMS DIVISION, Carrier/TPA	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION AND ORDER FILED FEBRUARY 23, 2022

Hearing conducted before ADMINISTRATIVE LAW JUDGE TERRY DON LUCY, in Craighead County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for Respondents No. 1: HONORABLE CHARLES H. MCLEMORE, Attorney at Law, Little Rock, Arkansas.

Counsel for Respondent No. 2: HONORABLE CHRISTY L. KING AND ROBIN W. MICKEL; Attorneys at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on February 11, 2022, upon Respondent No. 1's Motion to Dismiss, filed with the Commission on December 6, 2021. The *pro se* Claimant and Respondent No. 2 were advised of said Motion by the Commission by way of first-class and certified mail dated December 10, 2021, with a responsive pleading to such required on or before December 30, 2021. Subsequently, by way of first-class and certified mail dated January 3, 2022, the Commission advised the parties of the hearing scheduled for February 11, 2022.

Counsel for Respondent No. 1 appeared for the hearing at the duly appointed time of 11:00 A.M. When the hall was sounded by Counsel for Respondent No. 1 at such time, the Claimant was not present nor did she appear during the ensuing proceedings.

During said proceedings, the Commission's file with respect to the above-captioned

matter was deemed incorporated by reference into the record without objection, inclusive of the transcript of previous proceedings conducted on November 20, 2020, and the resulting Opinion and Order issued on November 24, 2020, by the undersigned Administrative Law Judge, the latter of which is regarded as the law of the case herein. In addition, Respondent No. 1's documentary exhibit was accepted into evidence as Respondent No. 1's Exhibit No. 1 without objection.

The Commission's file reflects that Respondent No. 2, by way of electronic correspondence sent on January 3, 2022, waived its appearance at the hearing scheduled for February 11, 2022. The Commission's file also reflects that the Claimant last submitted a pre-hearing filing on June 18, 2021, that the above-captioned matter was returned to the Commission's general files on September 28, 2021, upon agreement by the parties, and that her previous Counsel was allowed to withdraw from further representation by way of a Commission Order dated November 12, 2021. Finally, the Commission's file reflects that the above-captioned matter was previously dismissed without prejudice by the undersigned Administrative Law Judge on November 24, 2020, following a dismissal hearing held on November 20, 2020.

Neither the Commission's file nor Respondent No. 1's Exhibit No. 1 reflect any further activity on behalf of the Claimant since November 12, 2021, nor do either reflect any response from the Claimant with respect to the pending Motion. However, the Commission's file does reflect, by virtue of documentation provided to the Commission by the United States' Postal Service, that the Claimant or someone on her behalf received notice of Respondent No. 1's Motion on December 14, 2021, and that she or someone on her behalf, on January 10, 2022, also received notice of the subsequently scheduled hearing. Finally, the Commission's file reflects that the Claimant has made no additional hearing request since that filed by her previous Counsel

on May 21, 2021, nor since the date on which her previous Counsel was permitted to withdraw from representation.

Consequently, based upon my review and consideration of the Commission's file, Respondent No. 1's Exhibit No. 1, Respondent No. 2's waiver of appearance and lack of objection, statements made by Counsel for Respondent No. 1 during the hearing, the Claimant's failure to respond to Respondent No. 1's Motion and failure to appear at the hearing scheduled herein, and failure to take any action in prosecution of her claim as discussed above, I specifically find that the Claimant has failed to prosecute her claim in a timely manner within the meaning of Commission Rule 099.13 and that such should be dismissed without prejudice.

The above-captioned matter is respectfully dismissed without prejudice effective February 11, 2022, on which date Respondent No. 1's Motion was granted from the bench. The above-captioned matter will be returned to the Commission's general files and no further action will be taken unless the Clerk of the Commission is advised, in writing, of an additional hearing request. Respondent No. 1 is ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

Hon. Terry Don Lucy
ADMINISTRATIVE LAW JUDGE