

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H107732

ROBERTA LOWE, EMPLOYEE	CLAIMANT
AREA AGENCY ON AGING, EMPLOYER	RESPONDENT
AGING SERVICES FUND/ RISK MANAGEMENT RESOURCES, CARRIER/TPA	RESPONDENT

OPINION FILED NOVEMBER 22, 2022

Hearing before Administrative Law Judge James D. Kennedy in Pine Bluff, Arkansas, on November 17, 2022.

Claimant is *Pro Se* and failed to appear.

Respondents are represented by Mr. Jarrod S. Parrish, Attorney at Law of Little Rock, Arkansas, at the time of the hearing.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on November 17, 2022, in Pine Bluff, Arkansas, on 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 Mr. Ben Honaker, Attorney at Law of Little Rock Arkansas, who was allowed to withdraw as counsel by an Order from the Commission, dated September 2, 2022. A Motion to Dismiss was filed by the respondents on September 6, 2022, and the motion contended the claimant had failed to prosecute the case over the last six months as required by Rule 099.13 of the Arkansas Workers' Compensation and by Ark. Code Ann. § 11-9-702. The record provided that these claims allegedly occurred on or about October 10, 2019, a date

when an employer/employee relationship was stipulated to exist. The claim was initially accepted as compensable but was then denied on September 7, 2021, due to a lack of acute objective findings. The claimant filed a Form AR-C on September 20, 2021, which provided she sustained injuries to her neck and back after being hit at a stop sign by two vehicles while she was driving a “SEAT” vehicle. At the time of the hearing, it appeared that the claimant had not responded to the Motion to Dismiss and had failed to take any action to pursue the claim for the last six months.

After proper notice, the hearing on the Motion to Dismiss was initially set for November 16, 2022, in Pine Bluff, Arkansas. This hearing was rescheduled to November 17, 2022, starting at 9:30 a.m., by a letter dated November 4, 2022. Again, no response from the claimant occurred. Mr. Jarrod Parrish appeared on behalf of the respondents, and claimant failed to appear. The claimant had not sought any action in regard to this claim for the last six months.

After a review of the record as a whole, to include all evidence properly before the Commission, and having had an opportunity to hear the statements by the respondent’s attorney, and after finding there was appropriate notice, there is no alternative but to find that the Motion to Dismiss should be granted at this time. The claim should be dismissed without prejudice pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers’ Compensation Act.

ORDER

Pursuant to the above, there is no alternative but to find that the Motion to Dismiss should be granted and this matter should be dismissed without prejudice at this time.

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IT IS SO ORDERED:

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE