

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H108964

ROBERTA LOWE, EMPLOYEE

CLAIMANT

AREA AGENCY ON AGING, EMPLOYER

RESPONDENT

**AREA SERVICES FUND/RISK MANAGEMENT
RESOURCES, CARRIER/TPA**

RESPONDENT

OPINION FILED AUGUST 22, 2022

A hearing was held before ADMINISTRATIVE LAW JUDGE KATIE ANDERSON, in Pine Bluff, Jefferson County, Arkansas.

Claimant, Ms. Roberta Lowe, *pro se*, did not appear at the hearing.

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

STATEMENT OF THE CASE

A hearing was held on July 14, 2022, in the present matter pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W.3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. § 11-9-702 and Arkansas Workers' Compensation Commission Rule 099.13.

Appropriate Notice of this hearing was had on all parties to their last known address in the manner prescribed by law.

The record consists of the transcript of the July 14, 2022, hearing and the documents contained therein. The remainder of the Commission's file has also been made a part of the record. It is hereby incorporated by reference. Respondents submitted an exhibit packet, labeled as Respondents Exhibit No. 1, consisting of ten (10) pages, including the First Report of Injury; the Form AR-N; Respondent-Employer Financial Register printout; Respondents' Motion to Dismiss; Notice to the Claimant regarding the filing of Respondents' Motion to Dismiss; and a hearing notice on the Motion to Dismiss. Respondents' Exhibit No. 1 was admitted into evidence.

PROCEDURAL HISTORY

On August 20, 2021, the Claimant sustained injuries to her rib cage (right side) while working for Respondent-Employer. No Form AR-C was filed.

The Respondent-Insurance-Carrier filed a Form AR-2 with the Commission on November 9, 2021, accepting the claim as medical only and paying benefits.

On March 21, 2022, Respondents filed a Motion to Dismiss for Failure to Prosecute. On April 27, 2022, the Commission sent notification to the Claimant apprising her of the motion and a deadline for filing a written response to said motion. There was no response from the Claimant in that regard.

Pursuant to a Hearing Notice dated June 10, 2022, the Commission advised the parties that the matter had been set for a hearing on Respondents' Motion to Dismiss. Said hearing was scheduled for July 14, 2022, at 2:30 p.m., at the Federal Building (Post Office Building), Room 3611, 100 East 8th St., Pine Bluff, Arkansas. The Hearing Notice was sent to all parties; Claimant's notice was sent via certified mail and regular mail. United States Postal Service records indicate that the certified letter was delivered on May 21, 2022, at 3:26 p.m., and a signature was obtained.

Therefore, a hearing was in fact conducted as scheduled on Respondents' Motion to Dismiss. Respondents appeared through their attorney. Counsel advised that the Claimant has failed to timely prosecute her claim for workers' compensation benefits. As such, Respondents request that the claim be dismissed due to a lack of prosecution or request for a hearing.

DISCUSSION

In the present matter, no Form AR-C has ever been filed in this case. Typically, a Form AR-C is the means for filing a "formal claim." See Yearwood v. Wal-Mart Stores, Inc., 2003 AWCC 113, Claim No. F201311 (Full Commission Opinion filed June 17, 2003). See also Sinclair v. Magnolia Hospital, 1998 AWCC 409, Claim No. E703502 (Full Commission Opinion filed December 22, 1998) (a claim is "typically" filed via a Form AR-C). I recognize that other means exist to file a claim for Arkansas workers' compensation benefits other than a Form AR-C. However, I am unable to find any such document in the record/Commission's file that would constitute the filing of a claim for benefits in this matter.

Because no claim has ever been filed by the Claimant, I am compelled to find that there is no claim subject to dismissal pursuant to Respondent's motion. Under these circumstances, I am compelled to respectfully deny the motion to dismiss.

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. A Form AR-C has never been filed in connection with this case.
3. No other document of record before the Commission constitutes a claim for workers' compensation benefits.
4. The Respondents' Motion to Dismiss is respectfully denied because no claim exists to be subject to dismissal.

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ORDER

Pursuant to the findings of fact and conclusions of law set forth above, the motion to dismiss filed by Respondents is hereby respectfully denied.

IT IS SO ORDERED.

KATIE ANDERSON
ADMINISTRATIVE LAW JUDGE