

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H004305**

LESLEY MASON, EMPLOYEE	CLAIMANT
FRITO LAY, INC., EMPLOYER	RESPONDENT
INDEMNITY INS.CO. OF NORTH AMERICA/ESIS, INC., CARRIER/TPA	RESPONDENT

OPINION FILED MARCH 16, 2021

Hearing before Administrative Law Judge James D. Kennedy on March 16, 2021, in Little Rock, Pulaski County, Arkansas.

Claimant is represented by her attorney, Whitney James.

Respondents are represented by their attorney, Lee J. Muldrow.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on March 16, 2021, in Little Rock, Arkansas, on the 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 represented by Whitney James, who waived their right to appear and did not object to a dismissal without prejudice. The claim involved an injury which occurred on or about February 11, 2020, which involved a compensable motor vehicle accident. Some benefits, including temporary total disability, were paid. The respondents contend that on September 11, 2020, the claimant moved for a change of physician, but withdrew the request on October 1, 2020, that more than six (6) months have passed since the claimant filed a Form AR-C with the Commission, and the claimant has not sought any type of hearing before the Arkansas Workers' Compensation over the last six (6) months; this lack of action led to the filing of a Motion to Dismiss. The respondents

filed a Motion to Dismiss by letter on or about January 13, 2021, contending that the Dr. Wayne Bruffet opined that the claimant had reached maximum medical improvement on August 31, 2020.

An appropriate notice setting this matter for a hearing for a Motion to Dismiss was provided to the claimant by both certified and regular mail. A hearing was set for March 16, 2021, in regard to the Motion to Dismiss. The claimant filed a response stating that they had no objection to the matter being dismissed without prejudice and that they would not appear on the hearing date in Little Rock, Arkansas. At the time of the hearing, Lee J. Muldrow appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondents, there is no alternative but to find that this matter should be dismissed for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

**JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE**

