

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
AWCC CLAIM NO.: H101220**

JOSHUA MCDONALD, Employee	CLAIMANT
SUNRISE LAWN & LANDSCAPING, Employer	RESPONDENT
STATE FARM FIRE & CASUALTY CO., Carrier	RESPONDENT
SEDGWICK CLAIMS MANAGEMENT SERVICES, INC., TPA	RESPONDENT

**OPINION AND ORDER FILED SEPTEMBER 28, 2021**

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

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: HONORABLE JARROD S. PARRISH; Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on September 10, 2021, with respect to the Respondents' Motion to Dismiss filed with the Commission on August 6, 2021. When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did he appear during the ensuing proceedings. Respondents' Exhibit No. 1 was subsequently introduced into the record without objection, and the Commission's file in this matter was deemed incorporated by reference into the record without objection for purposes of this Opinion and Order.

The Commission's file reflects that notice of the Respondents' Motion was sent to the Claimant via certified and first-class mail from the Commission dated August 9, 2021, to his last known address of 1225 Greene 437 RD, Marmaduke, Arkansas, 72443, and that notice of the hearing was likewise sent to the Claimant via certified and first-class mail from the Commission dated August 31, 2021, to the same last known address. The Respondents also served the present Motion upon the Claimant. The Commission's file reflects no response from the Claimant with respect to the Respondents' pending motion and further reflects that efforts to deliver the notice of

hearing by the United States' Postal Service were apparently unsuccessful.

The Commission's file and Respondents' Exhibit No. 1 further reflect that the Claimant filed a Form AR-C in this matter on February 1, 2021, and has not requested a hearing since that date. In addition, there is no indication that the Claimant herein has responded to or otherwise objected to the Respondents' pending Motion. Finally, during the hearing, Counsel for the Respondents offered uncontradicted statements that his office had received no communication from the Claimant with respect to the Respondents' pending Motion.

Given the Claimant's lack of objection to the Respondents' Motion, corresponding failure to appear at the hearing held on September 10, 2021, and apparent failure to request a hearing on the merits of his claim since February 1, 2021, I specifically find that the Claimant has failed to prosecute his claim in a timely manner and that dismissal thereof without prejudice is warranted pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13, for lack of timely prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective September 10, 2021, and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

---

TERRY DON LUCY  
Administrative Law Judge