

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H204563

TERRY MILLER, Employee

CLAIMANT

TYSON SALES & DISTRIBUTION, INC., Employer

RESPONDENT

TYNET, INC., Carrier/TPA

RESPONDENT

OPINION FILED OCTOBER 18, 2022

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant not represented by counsel and not appearing at the hearing.

Respondent represented by, LAUREN SCROGGINS, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

This case comes on for review following a hearing on respondents' Motion to Dismiss.

This claim involves an injury on February 5, 2022, when the claimant sustained an alleged injury to his right knee. Respondents filed the First Report of Injury and AR-2 on June 24, 2022, controverting compensability of the claim in its entirety. An attempt to schedule a conference with a legal advisor at the Arkansas Workers' Compensation Commission failed as the claimant indicated he was no longer interested in pursuing his claim. Thereafter, on August 22, 2022, the respondents filed a Motion to Dismiss requesting this claim be dismissed for lack of prosecution. A hearing was scheduled for October 4, 2022, and notice of said hearing was sent to the claimant at his last known address by certified mail on August 26, 2022. That certified mail notice was returned to the Commission by the Post Office with a notation "Return to Sender. Unclaimed. Unable to Forward."

After my review of respondents' Motion to Dismiss, the claimant's lack of response thereto, and all other matters properly before the Commission, I find that respondents' Motion to Dismiss this claim should be and hereby is granted pursuant to Commission Rule 099.13. This dismissal is without prejudice.

ORDER

Pursuant to the above statement of the case and Commission Rule 099.13, I have no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

If respondents have not already done so, they are directed to pay the court reporter, Veronica Lane, her fees and expenses within thirty (30) days of receipt of her invoice.

IT IS SO ORDERED.

HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE