

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H404644

RICHARD MILTON, EMPLOYEE	CLAIMANT
GEORGIA PACIFIC LLC, EMPLOYER	RESPONDENT
OLD REPUBLIC INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT
ESIS, INC., THIRD PARTY ADMINISTRATOR /TPA	RESPONDENT

OPINION FILED NOVEMBER 25, 2025

Hearing held before Administrative Law Judge Chandra L. Black, in El Dorado, Union County, Arkansas.

Claimant, Pro Se, failed to appear at the hearing.

Respondents represented by the Honorable Rick Behring, Jr., Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

This matter comes before the Commission following a motion to dismiss filed by the respondents. A hearing on the motion was conducted on November 5, 2025, in El Dorado, Arkansas. Presently the sole issue for determination before the Commission is whether this claim should be dismissed due to the claimant's failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and/or Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)).

The record consists of the November 5, 2025, hearing transcript and documentary evidence. In that regard, Commission's Exhibit 1 encompassing two (2) actual pages, as it has

been marked accordingly, and Respondents' Exhibit 1 consisting of nine (9) numbered pages was thus designated.

Reasonable notice of the dismissal hearing was tried on all the parties in the manner established by applicable law.

No testimony was taken at the hearing.

Background

The record reflects the following procedural history:

On July 25, 2024, the claimant filed a Form AR-C, with the Commission, wherein he alleged that he sustained an accidental injury, on June 11, 2024, while working for the respondent-employer. According to this document, the claimant provided the following description of his alleged work-related accidental injury during the course and scope of his employment when he fell down a flight of a few steps. Claimant alleged that he sustained injuries to his back, neck, and shoulder. Per the Form AR-C, the claimant requested only additional workers' compensation benefits in the form of a change of physician.

The respondents filed an initial Form AR-2, with the Commission on June 22, 2024. At this time, respondents controverted this claim in its entirety as a compensable claim. Specifically, the respondents stated that "... injury is denied per Arkansas statutes."

Subsequently, in January 2025, the claimant retained legal counsel to represent him in this matter. In June 2025, the claimant's attorney filed a letter with the Commission asking that he be removed as counsel of record for the claimant in this matter. There was no objection to the claimant's attorney's motion to withdraw from representing the claimant in this case. Therefore, the Full Commission entered an order on July 18, 2025, granting the claimant's attorney's motion to withdraw from representing him in this matter.

Since the filing of the Form AR-C, the Claimant has failed to prosecute or otherwise pursue his claim for workers' compensation benefits. Specifically, it has been more than six (6) months since the filing of the Form AR-C; but thus far, the claimant has made no bona fide request for a hearing with respect to his claim.

As a result, in August 2025, the respondents' attorney filed with the Commission a Motion to Dismiss and Incorporated Brief in Support asking that this claim be dismissed due to a lack of prosecution by the claimant.

On August 21, 2025, my office wrote to the claimant and requested a written response to the motion within twenty (20) days. Said letter was mailed to the claimant by both first-class and certified mail to the address listed by the claimant with the Commission.

Per tracking information received from the United States Postal Service, the dismissal hearing notice sent by certified mail to the claimant was picked up by an individual on August 30, 2025. The signature of the recipient of said letter is illegible. However, the letter sent by first-class mail has not been returned to the Commission.

On September 16, 2025, my office sent a Notice of Hearing to the parties scheduling this matter for a dismissal hearing on November 5, 2025, at the Commission. Said hearing notice was sent to the claimant by both first-class and certified mail to the same address as before.

The Postal Service delivered the notice of hearing to the claimant's home address on September 18, 2025, and left it with an individual. The signature of the person in receipt of this notice is illegible. However, the notice sent by first-class mail has not been returned to the Commission. Thus, the above evidence preponderates that reasonable notice of the dismissal hearing was made upon the claimant as required under law.

Therefore, the dismissal hearing was conducted on the respondents' motion to dismiss this claim as formerly scheduled. Despite having received notice of the dismissal hearing, the claimant did not appear at the hearing. However, the respondents appeared at the hearing through their lawyer. The respondent's counsel argued, among other things, for dismissal of this claim because the claimant has made no bona fide request for a hearing or taken any action to prosecute or otherwise resolve his claim since the filing of the Form AR-C in July 2025. Specifically, the attorney for respondents moved for dismissal *without prejudice*, under the authority of Ark. Code Ann. §11-9-702, and/or Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)).

Adjudication

The statutory provisions and Arkansas Workers' Compensation Rule applicable to the respondents' motion for dismissal of this claim for workers' compensation benefits are outlined below:

Specifically, Ark. Code Ann. §11-9-702(a)(4) provides:

If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within the limitation periods specified in subdivisions (a)(1)-(3) of this section.

Additionally, Ark. Code Ann. §11-9-702(d) states:

If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, if necessary, be dismissed without prejudice to the refiling of the claim within the limitation period specified in subsection (b) of this section.

Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)), states:

The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.

In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution. (Effective March 1, 1982)

The evidence shows that the claimant has failed to respond to the written notices of this Commission, and he did not appear at the hearing to object to the dismissal motion. Moreover, since the filing of the Form AR-C, which was done more than six (6) months ago, the claimant has not made a bona fide request for a hearing with respect to his claim. Considering all the foregoing, I am compelled to conclude that the claimant has abandoned his claim for workers' compensation benefits.

Accordingly, based on my review of the documentary evidence, and all other matters properly before the Commission, I find that the respondents' motion to dismiss this claim is warranted under the provisions of Ark. Code Ann. §11-9-702 (a)(4), §11-9-702 (d), and Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)), of this Commission. Said dismissal is *without prejudice*, to the refiling of this claim within the limitation period specified by law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the record, 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. In July 2025, the claimant filed a Form AR-C with the Commission in this matter asserting his entitlement to workers' compensation benefits due to an alleged accidental injury occurring on June 11, 2024.

3. More than six (6) months passed after the filing of the Form AR-C, and the claimant did not make a bona fide request for a hearing.
4. The respondents filed with the Commission a motion to dismiss this claim, for which a hearing was held.
5. Reasonable notice of the motion to dismiss and hearing was had on all the parties.
6. The evidence preponderates that the respondents' motion to dismiss this claim for want of prosecution is warranted.
7. That the respondents' motion to dismiss is hereby granted pursuant to Ark. Code Ann. §11-9-702 (a)(4), §11-9-702 (d), and Commission Rule 099.13, (now codified at 11 C.A.R. § 25-110(d)), *without prejudice*, to the refiling of the claim within the specified limitation period.

ORDER

In accordance with the foregoing findings of fact and conclusions of law, this claim is hereby dismissed *without prejudice*, pursuant to Ark. Code Ann. §11-9-702 and *Commission Rule 099.13* (now codified at 11 C.A.R. § 25-110(d)), to the refiling of it within the specified limitation period.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge