

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No H305676

CEDRIC MITCHELL, EMPLOYEE

CLAIMANT

HOLLOWELL INDUSTRIES, LLC., EMPLOYER

RESPONDENT

**BRIDGEFIELD CASUALTY INS. CO, CARRIER/
SUMMIT CONSULTING, LLC, TPA**

RESPONDENT

OPINION FILED 19 DECEMBER 2024

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 19 December 2024 in Helena-West Helena, Arkansas.

The pro se claimant did not appear.

The Ryburn Law Firm, Mr. Jason Ryburn, appeared on behalf of the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Helena-West Helena, Arkansas, on 19 December 2024. This case relates to an alleged workplace injury sustained on or about 24 August 2023. The claimant filed a Form AR-C on 27 September 2023 alleging injuries to multiple body parts. A First Report of Injury was filed on 1 September 2023, and a Form AR-2 was filed on 5 September 2023 denying the claim.

On 3 October 2024, the respondents requested a dismissal of this matter for failure to prosecute the claim. A letter from the Commission to the claimant communicating that motion's filing was dated 4 October 2024, and another letter setting a hearing on the motion was dated 4 November 2024. Those letters provide notice that the claimant was not required to appear if he did not object to the dismissal of the claim.

I noted at the hearing that mailings from the Commission to claimants are sent via both First Class and Certified Mail with return receipts requested. Returned mail is

regularly appended to the Commission's file. This claim file does not include any returned or undeliverable mailings.

The respondents appeared on 19 December 2024, presented their motion, and offered supporting evidence into the record. See Exhibit № 1. As argued by the respondents at the hearing, the file reflects no request for a hearing on a claim in the relevant time preceding the filing of their motion. And the claimant did not appear to resist the dismissal of this claim.

Ark. Code Ann. § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six months without a bona fide request for a hearing. Our Rule 99.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE