

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. G902212**

**TRENELL MOORE,  
EMPLOYEE** **CLAIMANT**

**EXPRESS SERVICES, INC.,  
EMPLOYER** **RESPONDENT**

**NEW HAMPSHIRE INS. CO./SEDGWICK CLAIMS  
MG'T SERVICES, INC.,  
INSURANCE CARRIER/TPA** **RESPONDENT**

**OPINION AND ORDER TO DISMISS WITHOUT PREJUDICE  
FILED OCTOBER 1, 2021**

Hearing conducted on Friday, October 1, 2021, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Texarkana, Miller County, Arkansas.

The claimant is represented by the Honorable Laura Beth York, Rainwater, Holt & Sexton, Little Rock, Pulaski County, Arkansas, who waived appearance at the hearing.

The respondents were represented by the Honorable Carole Lockard Worley, Worley, Wood & Parrish, P.A., Little Rock, Pulaski County, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted on Friday, October 1, 2021, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2020 Lexis Replacement) and Commission Rule 099.13 (2020 Lexis Repl.).

The respondents filed a motion with the Commission on August 23, 2021, requesting this claim be dismissed without prejudice for lack of prosecution. In accordance with applicable Arkansas law, the claimant and his attorney were mailed due and proper legal notice of the respondents' motion to dismiss, as well as a copy of the hearing notice, via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested. Thereafter, via email to the respondents and the Commission dated September 14, 2021, the claimant's attorney did not object

to the motion, and waived appearance at the hearing, nor did the claimant himself appear at the hearing.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission's entire file in this matter.

### **DISCUSSION**

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' motion to dismiss. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant has failed and/or refused to prosecute his claim at this time.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Commission has jurisdiction of this claim.
2. After having received due and legal notice of the respondents' motion to dismiss which was filed with the Commission on August 23, 2021, as well as due and legal notice of the subject hearing, the claimant's attorney did not object to the motion. Moreover, via email to the respondents and the Commission dated September 14, 2021, waived appearance at the hearing and, of course, the claimant did not appear at the subject hearing.
3. The claimant has to date failed and/or refused to prosecute his claim. In addition, the claimant has failed and/or refused to request a hearing within the last six (6) months.
4. Therefore, the respondents' motion to dismiss without prejudice filed with the Commission on August 23, 2021, should be and hereby is GRANTED; and

this claim is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b), and Commission Rule 099.13.

This opinion and order shall not be construed to prohibit the claimant, his attorney, any attorney he may retain in the future, or anyone acting legally and on his behalf from refiling the claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

The respondents shall pay the court reporter's invoice within 20 days of their receipt thereof.

**IT IS SO ORDERED.**

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Mike Pickens  
Administrative Law Judge

MP/mp