

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H503508**

EUNICE MILLER, EMPLOYEE

CLAIMANT

**DASSAULT FALCON JET CORP.,
EMPLOYER**

RESPONDENT

**STARR SPECIALTY INS. CO.,
CARRIER**

RESPONDENT

OPINION FILED MARCH 17, 2026

Hearing before Administrative Law Judge O. Milton Fine II on March 17, 2026, in Little Rock, Pulaski County, Arkansas.

Claimant, *pro se*, not appearing.

Respondents represented by Ms. Claire Hafeez, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on the Motion to Dismiss by Respondents. A hearing on the motion was conducted on March 17, 2026, in Jonesboro, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing. Admitted into evidence was Commission Exhibit 1, pleadings, correspondence and forms related to this claim, consisting of 17 pages. See Ark. Code Ann. § 11-9-705(a)(1) (Repl. 2012)(Commission must “conduct the hearing . . . in a manner which best ascertains the rights of the parties”).

The record reflects the following procedural history:

Per the First Report of Injury or Illness filed on June 6, 2025, Claimant purportedly suffered an injury to her back on May 5, 2025, while moving boxes at work.

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According to the Form AR-2 that was filed on June 9, 2025, Respondents accepted the claim as compensable and paid medical and indemnity benefits pursuant thereto.

On June 30, 2025, through then-counsel Mark Alan Peoples, Claimant filed a Form AR-C. All boxes on the form were checked to indicate that Claimant was seeking all manner of initial and additional benefits in connection with her alleged back injury. In emails accompanying this filing, Peoples stated that he was “not asking for a hearing”; but he did request a change of physician on her behalf. Respondents emailed the Commission on July 3, 2025, reiterating that they had accepted the claim. On August 14, 2025, when the Commission notified Peoples that Claimant had declined the appointment with her newly-assigned physician, counsel withdrew the change-of-physician request.

In an email to the Commission sent on August 14, 2025, Peoples moved to withdraw from the case. In an Order entered on September 10, 2025, the Full Commission granted the motion under AWCC Advisory 2003-2.

The record reflects that nothing further took place on the claim until December 19, 2025. On that date, Respondents filed the instant motion, asking for dismissal of the claim under 11 C.A.R. § 25-110(d) “due to lack of activity by the Pro Se Claimant and her failure to obtain counsel after Mark Peoples withdrew as counsel” The file was assigned to Administrative Law Judge James Kennedy on December 19, 2025; and on that same date, his office wrote Claimant, asking for a response to the motion within 20 days. The letter was sent by certified and first-class mail to the Benton, Arkansas

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address of Claimant listed in the file and on her Form AR-C. Claimant signed for the certified letter on December 22, 2025; and the first-class mailing was not returned. However, no response from her to the motion was forthcoming. On February 11, 2026, a hearing on the Motion to Dismiss was scheduled for March 17, 2026, at 10:00 a.m. at the Commission in Little Rock. The Notice of Hearing was sent to Claimant via first-class and certified mail to the same address in Benton as before. In this instance, the certified letter went unclaimed; but the one sent by first-class mail was not returned.

The hearing on the Motion to Dismiss proceeded as scheduled on March 17, 2026. Again, Claimant failed to appear at the hearing. But Respondents appeared through counsel and argued for dismissal under the aforementioned authority.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following Findings of Fact and Conclusions of Law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this matter.
2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.
3. The evidence preponderates that Claimant has failed to prosecute her claim under 11 C.A.R. § 25-110(d).

4. The Motion to Dismiss is hereby granted; this claim is hereby dismissed without prejudice under 11 C.A.R. § 25-110(d).

III. DISCUSSION

11 C.A.R. § 25-110(d) reads:

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.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

As shown by the evidence recounted above, (1) the parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon; and (2) Claimant has failed to pursue her claim because she has taken no further action in pursuit of it (including appearing at the January 2, 2026, hearing to argue against its dismissal) since the filing of her Form AR-C on June 30, 2025. Thus, the evidence preponderates that dismissal is warranted under § 25-110(d).

That leaves the question of whether the dismissal of the claim should be with or without prejudice. The Commission possesses the authority to dismiss claims with

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prejudice. *Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App. 137, 744 S.W.2d 402 (1988). The Commission and the appellate courts have expressed a preference for dismissals *without prejudice*. See *Professional Adjustment Bureau v. Strong*, 75 Ark. 249, 629 S.W.2d 284 (1982)). Respondents at the hearing asked for a dismissal without prejudice. I agree and find that the dismissal of this claim should be and hereby is entered *without prejudice*.¹

IV. CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim for additional benefits is hereby dismissed *without prejudice*.

IT IS SO ORDERED.

O. MILTON FINE II
Chief Administrative Law Judge

¹“A dismissal ‘without prejudice’ allows a new [claim] to be brought on the same cause of action.” BLACK’S LAW DICTIONARY 825 (abridged 5th ed. 1983).