

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H500896**

**STEPHEN H. MOORE,
EMPLOYEE**

CLAIMANT

**INCITE REHAB, LLC,
SELF-INSURED EMPLOYER**

RESPONDENT

**ARK. SELF-INSURED TRUST,
CARRIER**

RESPONDENT

**CCMSI,
THIRD-PARTY ADMINISTRATOR**

RESPONDENT

OPINION FILED NOVEMBER 26, 2025

Hearing conducted on Tuesday, October 14, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant is *Pro Se*, of Jonesboro, Arkansas.

The Respondents were represented by Mr. Jarrod Parrish, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on August 12, 2025. A hearing on the motion was conducted on October 14, 2025, in Little Rock, Arkansas. Claimant, according to Commission file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a retirement living HEA. The date for Claimant's alleged injury was on November 18, 2024. There is an issue as to when this incident was reported to the Respondent/Employer. Admitted into evidence was Respondents' Exhibit 1, pleadings, and correspondence, consisting of 8 pages, and Commission Ex. 1, pleadings, and U.S. Mail return receipts, consisting of 7 pages, *as discussed infra*.

The record reflects on February 10, 2025, a Form AR-C was filed purporting that Claimant sustained a work-related injury to his low back while treating two patients. On February 24, 2025, a Form AR-1 was filed with the Commission noting that the date the employer was notified was on February 10, 2024¹. On February 24, 2025, a Form AR-2 was filed denying compensability.

Respondents filed a Motion to Dismiss due to Claimant's failure to prosecute his claim on August 12, 2025. The Claimant was sent, on August 15, 2025, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to his last known address. The certified motion notice was claimed by Claimant as noted on the August 19, 2025, return receipt. This notice was also sent regular U.S. Mail and did not return to the Commission. Despite this, the Claimant did not respond to the Motion, in writing, as required. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on September 8, 2025. The certified notice was not claimed as noted by the September 23, 2025, return receipt. Likewise, the hearing notice sent regular First-Class was not returned to the Commission. The hearing took place on October 14, 2025. And as mentioned before, the Claimant did not show up to the hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, 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 Commission has jurisdiction over this claim.

¹ This date appears to be in error since the date of injury comes months after the date of notice to the employer.

2. The Claimant and Respondents both had reasonable notice of the October 14, 2025, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under 11 C.A.R. §25-110(d) (formerly AWCC Rule 099.13).
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

11 C.A.R. §25-110(d) provides:

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).

Consistent with 11 C.A.R. §25-110(d), the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. The certified hearing notice was not claimed by Claimant, per the return postal notice bearing the September 23, 2025, date. However, the hearing notice was also sent First-Class U.S. Mail to Claimant's last known address record and did not return to the Commission. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

Furthermore, 11 C.A.R. §25-110(d) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed his Form AR-C on February 10, 2025. Since then, he has failed to request a bona fide hearing. Therefore, I

do find by the preponderance of the evidence that Claimant has failed to prosecute his claim. Thus, Respondents' Motion to Dismiss should be granted.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge