

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H202472

SHANE O'GRADY, Employee

CLAIMANT

CITY OF BULL SHOALS, Employer

RESPONDENT

ARKANSAS MUNICIPAL LEAGUE, Carrier/TPA

RESPONDENT

OPINION FILED NOVEMBER 21, 2023

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant not represented by counsel and not appearing at hearing.

Respondent represented by MARY K. EDWARDS, Attorney at Law, North Little Rock, Arkansas.

STATEMENT OF THE CASE

This case comes on for review following a hearing on respondents' Motion to Dismiss.

On June 15, 2022, the claimant's attorney, Gary Davis, filed an AR-C requesting various compensation benefits in which he alleged injuries to his head, neck and left shoulder on or about March 15, 2022. The claim was accepted as compensable, and all related benefits were paid.

The claimant, through his attorney, requested a hearing on October 25, 2022, on the issue of additional medical treatment. A hearing was scheduled for March 21, 2023. Mr. Davis withdrew the claimant's hearing request on March 2, 2023, and entered a Motion to Withdraw as Counsel. The Commission granted the motion on March 30, 2023. No further action was taken in this claim.

On August 11, 2023, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for November 7, 2023. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on September 25, 2023. United States Postal Department records indicate that claimant received and signed for the notice on September 28, 2023. Despite having received notice of the scheduled hearing, the claimant failed to appear at the hearing and has failed to respond to the motion in any form or manner.

After my review of the respondents' Motion to Dismiss, the claimant's lack of response thereto, and all other matters properly before the Commission, I find that respondents' Motion to Dismiss this claim should be and hereby is granted pursuant to Commission Rule 099.13. This dismissal is without prejudice.

ORDER

Pursuant to the above statement of the case and Commission Rule 099.13, I have no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

If respondents have not already done so, they are directed to pay the court reporter, Veronica Lane, her fees and expenses within thirty (30) days of receipt of her invoice.

IT IS SO ORDERED.

ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE