

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H103838 & H304006

SAUL PEREZ, EMPLOYEE

CLAIMANT

SOUTHERN TIRE MART, LLC EMPLOYER

RESPONDENT

TRAVELERS INDEMNITY CO., CARRIER/TPA

RESPONDENT

OPINION FILED MARCH 13, 2024

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas on March 5, 2024.

Claimant is *pro se* and failed to appear.

Respondents are represented by Mr. Guy Alton Wade, Attorney-at-Law of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on March 5, 2024, in Little Rock, Arkansas on respondents' Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was *pro se* and failed to appear for the hearing.

The claimant's claim of H103838 First Report of Injury was filed on April 28, 2021, where the claimant alleged he felt a pop in his right shoulder while lifting a tire off of a hook. The respondents filed an AR-2 on May 4, 2021, that made no statement in regard to the position of the respondents. The respondents later filed a second AR-2 on August 24, 2022, accepting the claim as a shoulder relocation in regard to the right shoulder. An AR-4 was also filed by the respondents on August 24, 2022, which was apparently rejected by Compliance, based upon the filing marks on the document.

The claimant later filed a second claim and a Form AR-C in H304006 on June 23, 2023, contending that he had injured his shoulder, elbow, and arm. The Form AR-2 filed on July 12, 2023, provided that there was no compensable injury to the left elbow. The claimant

was originally represented by Mark Alan Peoples in regard to this claim who was allowed to withdraw by an Order of the Full Commission dated December 19, 2023.

A Motion to Dismiss by letter was filed on December 29, 2023, requesting that the matter be dismissed for failure to prosecute. The claimant has not requested a hearing to date and more than six (6) months have passed since the filing of the original claim nor is there any record of the claimant contacting the Commission after the date his attorney was allowed to withdraw.

Appropriate notice was provided to the claimant notifying him that a hearing on the Motion to Dismiss was set for March 5, 2024, in Little Rock, Arkansas. The claimant did not file a response and failed to appear on the hearing date. At the time of the hearing, Guy Alton Wade appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondent, it is found that this matter should be dismissed without prejudice, for failure to prosecute pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss these claims in their entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE