

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H401022**

**MICHAEL PETZ,
EMPLOYEE**

CLAIMANT

**HYTROL CONVEYOR COMPANY, INC.,
SELF-EMPLOYER**

RESPONDENT

**CCMSI,
THIRD PARTY ADMINISTRATOR**

RESPONDENT

OPINION FILED JULY 23 , 2025

Hearing conducted on Friday, June 13, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Jonesboro, Craighead County, Arkansas.

The Claimant, Mr. Michael L. Petz, *Pro Se*, of Jonesboro, Arkansas.

The Respondents were represented by the Honorable S. Shane Baker, Jonesboro, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on February 27, 2025. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing. Respondents admitted Respondents Exhibit 1, a written Motion to Dismiss with a Form AR-C attachment, consisting of 3 pages, Respondents' Exhibit 2, letter from Claimant and payment ledger, consisting of 2 pages. Also, admitted into evidence was Commission Exhibit 1, notice, correspondence, and certified return receipts, consisting of 10 pages; and Form AR-1 and Form AR-2 are also blue-backed into the record, *as discussed infra*.

The Claimant worked for Respondent/Employer as a machinist and allegedly injured himself on October 23, 2023. The record reflects that on February 9, 2024, a Form AR-C was filed

with the Commission, purporting that Claimant was lifting a roller with another employee, when the other employee dropped the roller causing a jerking motion that injured Claimant's right shoulder. On February 20, 2024, a Form AR-1 was filed with the Commission purporting that this incident was reported to Respondent/Employer on October 27, 2023. On February 20, 2024, a Form AR-2 was filed by Respondents accepting compensability of the right shoulder injury.

The Respondents next filed a Motion to Dismiss on February 27, 2025, requesting this claim be dismissed for a lack of prosecution. The Claimant was sent, certified and regular U.S. Mail, notice of the Motion to Dismiss from my office on March 6, 2025, to his last known address. The certified notice was claimed by Claimant on March 8, 2025. Claimant responded to the notice in writing on March 31, 2025, but did not request a hearing on his claim. Rather he mentions in his letter that he spoke to the Commission's legal advisers and was advised that he had one year after the last payment of benefits to file his claim. But again, he did not request a full hearing. 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 April 16, 2025. The certified hearing notice was claimed by the Claimant on April 21, 2025. The hearing took place on June 13, 2025. 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.

2. The Claimant and Respondents both had reasonable notice of the June 13, 2025, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to make a bona fide request for a hearing in more than six months pursuant to *Ark. Code Ann.* § 11-9-702(a)(4).
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

Under *Ark. Code Ann.* § 11-9-702(a)(4) "If within six (6) months after the filing of a claim for compensation no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice...". Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), the Commission scheduled and conducted a hearing, with reasonable notice to the Claimant, on Respondents' Motion to Dismiss hearing date. The certified hearing notice was claimed on April 21, 2025, per the return postal notice bearing the same date. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

Ark. Code Ann. § 11-9-702(a)(4) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of a bona fide request for a hearing within six months. The Claimant filed his Form AR-C on February 9, 2024. 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 by failing to request a bona fide hearing within six months. 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