

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H403979**

**JAMES PLANEK,  
EMPLOYEE**

**CLAIMANT**

**L.V.L. INC.,  
EMPLOYER**

**RESPONDENT**

**GREAT WEST CASUALTY COMPANY,  
CARRIER/TPA**

**RESPONDENT**

**OPINION FILED DECEMBER 16, 2025**

Hearing conducted on Tuesday, October 21, 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 Cabot, Arkansas.

The Respondents were represented by Mr. Eric Newkirk, Attorney at Law, Little Rock, Arkansas.

**I. BACKGROUND**

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on May 1, 2025. A hearing on the motion was conducted on October 21, 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 driver. The date for Claimant's alleged injury was on June 13, 2024. This incident was reported to the Respondent/Employer on June 14, 2024. Admitted into evidence was Respondents' Exhibit 1, pleadings, and correspondence, consisting of 17 pages, and Commission Ex. 1, pleadings, correspondence, and U.S. Mail return receipts, consisting of 10 pages, *as discussed infra*.

The record reflects on September 3, 2024, a Form AR-C was filed by Claimants then-attorney, Gary Davis, purporting that Claimant sustained an injury to his low back while getting

out of his truck. On June 21, 2024, a Form AR-1 was filed with the Commission noting that the type of back injury experienced by Claimant was a strain. On June 24, 2024, a Form AR-2 was filed denying compensability but had the date of injury as June 6, 2024. On August 26, 2024, Respondents filed an amended Form AR-2 correcting the day of injury as June 13, 2024.

Respondents filed a Motion to Dismiss due to Claimant's failure to prosecute his claim on May 1, 2025. Claimant's then-attorney opposed the motion in writing while simultaneously filed a Motion to be Relieved as Counsel on May 5, 2025. Claimant's then-attorney, Gary Davis, reason for the withdrawal request was the Claimant's lack of communication with him. Mr. Davis motion was granted on June 24, 2025. The Respondents renewed their motion to dismiss for lack of prosecution. The Claimant was sent, on August 4, 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 7, 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 her 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 10, 2025. The certified notice was not claimed as noted by the September 18, 2025, return receipt. Likewise, the hearing notice sent regular First-Class was not returned to the Commission. The hearing took place on October 21, 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.
2. The Claimant and Respondents both had reasonable notice of the October 21, 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 claimed by Claimant, per the return postal notice bearing the September 18, 2025, date. 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 September 3, 2024. Since then, he has failed to communicate with his then-attorney, respond to discovery, and 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.**

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STEVEN PORCH  
Administrative Law Judge