

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H107584

THOMAS L. QUALLS, EMPLOYEE

CLAIMANT

FUTURE FUEL CHEMICAL COMPANY, EMPLOYER

RESPONDENT

**EMPLOYERS INSURANCE COMPANY
OF WAUSAU, CARRIER/TPA**

RESPONDENT

OPINION FILED MAY 2, 2023

**Hearing before Administrative Law Judge James D. Kennedy on April 26, 2023, in
Batesville, Independence County, Arkansas.**

Claimant is *pro se* and failed to appear.

**Respondents are represented by their attorney, Mr. David C. Jones, of Little Rock,
Arkansas.**

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on April 26, 2023, in Batesville, Arkansas, on respondent's 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 filed an AR-C on September 16, 2021. On September 21, 2021, the respondent/carrier filed an AR-2 providing that the claim was accepted as medical only. Claimant was granted a change of physician by the Commission on October 27, 2021, but then, on November 9, 2021, Mark McGuire, Assistant CEO of the Commission, entered an Order setting aside the Change of Physician Order, after the claimant indicated he did not want to proceed with it. The claimant continued to receive medical treatment and on June 8, 2022, Dr. Erik Gordon provided that the claimant had reached maximum medical improvement with a zero percent (0%) impairment rating. A Motion to

Dismiss was filed by the respondents with the Arkansas Workers' Compensation Commission on or about February 21, 2023. The claimant failed to file a response to the Motion.

An appropriate notice for the hearing on the Motion to Dismiss was provided. The claimant failed to appear on the hearing date. At the time of the hearing, David C. Jones appeared on behalf of the respondents and checked the hall at the request of the Commission to confirm that the claimant was not present and then 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 respondents, it is found that this matter should be dismissed for failure to prosecute pursuant to Ark. Code Ann. §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, this matter should be dismissed without prejudice.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE