

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H402575

BRANDON RANDALL, EMPLOYEE

CLAIMANT

232 RENT LLC, EMPLOYER

RESPONDENT

PREVISOR INSURANCE COMPANY, CARRIER/TPA

RESPONDENT

OPINION FILED FEBRUARY 25, 2025

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas, on February 11, 2025.

Claimant is represented by Kenneth A. Olsen, Bryant, Arkansas.

Respondents are represented by Guy Alton Wade, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on February 11, 2025, in Little Rock, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant and his representative failed to appear at the time of the hearing, but the Commission was notified by an email response from the claimant's representative that they had in fact received the notice of the hearing. The claimant had filed a Form AR-C on or about April 17, 2024, contending that he had injured his lumbar spine while lifting a water heater by himself. The respondents filed a Form AR – 2, on or about April 26, 2024, accepting the claim as compensable and providing that the claimant was injured while in the course and scope of his employment. TTD benefits were being paid at the time of the Form AR-2 filing, due to the fact the claimant was placed on light duty restrictions by his treating physician and the respondents were not able to accommodate the restrictions.

The respondents submitted discovery, which was never replied to, and a Motion to Dismiss was filed by the respondents on December 16, 2024, and appropriate notice was provided to the claimant notifying him of a hearing on the Motion to Dismiss being set for February 11, 2025, in Little Rock, Arkansas. The claimant's representative notified the Commission by email that he had in fact received the notice of the hearing but neither the claimant nor claimant's representative appeared at the time of the hearing. Guy Alton Wade appeared on behalf of the Respondents at the time of the hearing 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 Respondents, it is found that this matter should be dismissed without prejudice, for failure to prosecute pursuant to A.C.A. 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 this claim in its entirety, without prejudice, for failure to prosecute.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE