

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE N^o H401378

ROBIN RIGSBY, EMPLOYEE

CLAIMANT

BENTON UTILITIES, EMPLOYER

RESPONDENT

AR MUNICIPAL LEAGUE, CARRIER/TPA

RESPONDENT

OPINION FILED 20 NOVEMBER 2024

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 20 November 2024 in Little Rock, Arkansas.

The *pro se* claimant did not appear.

Ms. Mary K. Edwards appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 20 November 2024. This case relates to an alleged workplace injury sustained on or about 18 January 2024. A First Report of Injury was filed by the respondents on 28 February 2024, and A Form AR-2 was filed the same day, noting that the claim was denied as occurring outside of the course and scope of employment services. A Form AR-C was prepared by the claimant on 1 February 2024 and filed on 23 February 2024. See Respondents' Exhibit N^o 1.

The respondents filed a Motion to Dismiss for Failure to Prosecute on 1 October 2024, citing the applicable statute and rule. Notice of that motion was provided to the claimant, who contacted the Commission's Legal Advisor's Division to discuss not opposing the dismissal of her claim. A letter dated 25 October 2024 indicating that the claimant

“would appreciate it if this could be dismissed as soon as possible.” See Commission’s Exhibit No 1.

The respondents appeared on 20 November 2024, presented their motion, and offered supporting evidence into the record. As argued by the respondents at the hearing, the file reflects no request for a hearing on a claim in the relevant time preceding the filing of their motion. And the claimant did not appear at the hearing to resist the dismissal of this claim. Indeed, her letter supporting a dismissal was introduced into the record.

Ark. Code Ann. § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six months without a bona fide request for a hearing. Our Rule 99.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents’ counsel, I find that the respondents’ Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE