

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H302738

MARVIN ROBERSON, Employee	CLAIMANT
LAKESHORE RECYCLING, Employer	RESPONDENT
AMERICAN ZURICH INS. CO., Carrier	RESPONDENT

OPINION/ORDER FILED DECEMBER 4, 2024

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS, in Harrison, Boone County, Arkansas.

Claimant represented by CHRISTOPHER S. MOBERG, Attorney, Springfield, Missouri; although not present at hearing.

Respondent represented by MELISSA WOOD, Attorney, Little Rock, Arkansas.

OPINION/ORDER

This case comes on for review following a hearing on respondent's Motion to Dismiss.

On December 27, 2023, Christopher Moberg, claimant's attorney, filed a Form AR-C requesting various compensation benefits in which he alleged injuries to his head, right shoulder, ribs, and spleen; however, no hearing was requested. No further action was taken in this claim.

On August 12, 2024, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for November 7, 2024. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on September 12, 2024. United States Postal Department records indicate that claimant received and signed for the notice on September 19, 2024. Despite having received notice of the scheduled hearing, the claimant failed to appear at the hearing.

Mr. Moberg indicated by email of a letter dated August 12, 2024, that he would waive his appearance at the hearing and further indicated that he had no objection to the Motion to Dismiss “WITHOUT prejudice.”

After my review of respondent’s Motion to Dismiss, Mr. Moberg’s response thereto that he had no objection to the motion to dismiss without prejudice, and the claimant’s failure to appear at the scheduled hearing, as well as all other matters properly before the Commission, I find that respondent’s Motion to Dismiss this claim should be and hereby is granted pursuant to A.C.A. §11-9-702(a)(4). This dismissal is without prejudice.

IT IS SO ORDERED.

**HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**