

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**AWCC FILE No H102591**

**SALVADOR R. ROMERO, EMPLOYEE**

**CLAIMANT**

**TYSON POULTRY, INC., EMPLOYER**

**RESPONDENT**

**TYSON POULTRY, INC./TYNET CORP., CARRIER/TPA**

**RESPONDENT**

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**OPINION FILED 11 JANUARY 2024**

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Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 11 January 2024, in Pine Bluff, Jefferson County, Arkansas.

The *pro se* claimant failed to appear.

Mr. J. Matthew Mauldin, Attorney-at-Law of Little Rock, Arkansas, appeared for the respondents.

**STATEMENT OF THE CASE**

A hearing on the respondents' Motion to Dismiss was held on this matter in Pine Bluff, Arkansas, on 11 January 2024. This case relates to a workplace injury sustained on 21 March 2020. A Form AR-4, dated 31 March 2021, was first filed with the Commission showing that a number of benefits were paid to the claimant on his compensable injury/injuries. A Form AR-C, dated 28 April 2022, was eventually filed on the claimant's behalf by counsel with the Wren Law Firm. The Wren Law Firm later requested to be relieved as counsel for the claimant, and that request was granted by the Full Commission in an order dated 28 February 2023.

On 23 October 2023 the respondents filed the immediate Motion requesting that this matter be dismissed for lack of prosecution. Notice of the respondents' Motion and then notice of a hearing date for that Motion were sent to the claimant on 25 October 2023 and 20 November 2023, respectively. I will note that it is the Commission's practice for any mail

related to Motions to Dismiss is sent to a *pro se* claimant via USPS First-Class mail and USPS Certified Mail. Returned or undeliverable mail is added to the claimant's file. The First-Class mailings of the above-noted notices were not returned to the Commission, but the Certified copies of those mailings were returned to the Commission as "unclaimed."

The claimant did not file an objection to the dismissal or appear at the hearing to argue against the respondents' Motion. 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 that motion. Notice of that motion and notice of the hearing on that motion were sent to the address provided by the claimant, and the claimant chose not to appear to resist the Motion to Dismiss this action. The respondents appeared, presented their Motion, and offered supporting evidence into the record.

Arkansas Code Annotated §11-9-702(a)(4) states that a matter may be dismissed without prejudice after six (6) 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.

**VI. ORDER**

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

**SO ORDERED.**

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JAYO. HOWE  
ADMINISTRATIVE LAW JUDGE