

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H506098**

GARRETT REED, EMPLOYEE

CLAIMANT

LEXICON, INC., EMPLOYER

RESPONDENT

ACIG INS. CO., CARRIER

RESPONDENT

OPINION FILED JUNE 22, 2026

Hearing before Administrative Law Judge O. Milton Fine II on June 19, 2026, in Jonesboro, Craighead County, Arkansas.

Claimant, *pro se*, not appearing.

Respondents represented by Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on the Motion to Dismiss by Respondents. A hearing on the motion was conducted on June 19, 2026, in Jonesboro, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing. Admitted into evidence was Respondents' Exhibit 1, forms, pleadings, reports, and correspondence related to this claim, consisting of one index page and eight numbered pages thereafter. Also, in order to address adequately this matter under Ark. Code Ann. § 11-9-705(a)(1) (Repl. 2012)(Commission must "conduct the hearing . . . in a manner which best ascertains the rights of the parties"), and without objection, I have blue-backed to the record documents from the Commission's file on the claim, consisting of five pages. In accordance with *Sapp v. Tyson Foods*,

Inc., 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549, these documents have been served on the parties in conjunction with this opinion.

The record shows the following procedural history:

Per the First Report of Injury or Illness filed on September 23, 2025, Claimant purportedly suffered an injury to his left knee at work on July 17, 2025, when he bent down to loosen a chain and pivoted on his left leg. According to the Form AR-2 that was filed on September 23, 2025, Respondents accepted the injury as compensable and paid medical and indemnity benefits pursuant thereto.

On October 21, 2025, through then-counsel Mark Alan Peoples, Claimant filed a Form AR-C, requesting the full range of initial and additional benefits in connection with the aforementioned incident. Counsel in an email accompanying this filing stated that he was “not asking for a hearing at this time.” Respondents’ counsel made her entry of appearance on October 29, 2025.

On February 2, 2026, Peoples moved to withdraw from his representation of Claimant. In an Order entered on February 25, 2026, the Full Commission granted the motion under AWCC Advisory 2003-2.

The record reflects that nothing further took place on the claim until April 21, 2026. On that date, Respondents filed the instant motion, asking for dismissal of the claim under Ark. Code Ann. § 11-9-702(d) (Repl. 2012) and 11 C.A.R. § 25-110(d). Therein, they argued that “[m]ore than six months have passed since Claimant filed an AR-C with the Commission . . . [and that he] has not sought any

type of bona fide hearing before the . . . Commission over the last six months.” My office wrote Claimant on April 22, 2026, asking for a response to the motion within 20 days. The letter was sent by first class and certified mail to the Senath, Missouri address for Claimant listed in the file and on his Form AR-C. He signed for the certified letter on April 25, 2026, and the first-class letter was not returned. Regardless, no response from Claimant to the motion was forthcoming. On May 19, 2026, a hearing on the Motion to Dismiss was scheduled for June 19, 2026, at 11:30 a.m. at the Craighead County Courthouse in Jonesboro. The Notice of Hearing was sent to Claimant via certified mail to the same address as before. In this instance, he signed for the mailing on June 3, 2026.

The hearing on the Motion to Dismiss proceeded as scheduled. Again, Claimant failed to appear at the hearing. But Respondents appeared through counsel and argued for dismissal under the foregoing authorities.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following Findings of Fact and Conclusions of Law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers’ Compensation Commission has jurisdiction over this matter.

2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.
3. The evidence preponderates that Claimant has failed to prosecute his claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted; this claim is hereby dismissed without prejudice under 11 C.A.R. § 25-110(d).

III. DISCUSSION

11 C.A.R. § 25-110(d) reads:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

As shown by the evidence recounted above, (1) the parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon; and (2)

Claimant has failed to pursue his claim because he has taken no further action in pursuit of it (including appearing at the June 19, 2026, hearing to argue against its dismissal) since the filing of his Form AR-C on October 21, 2025. Thus, the evidence preponderates that dismissal is warranted under the above provision. Because of this finding, the argument made under § 11-9-702(d) will not be addressed.

That leaves the question of whether the dismissal of the claim should be with or without prejudice. The Commission possesses the authority to dismiss claims with prejudice. *Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App. 137, 744 S.W.2d 402 (1988). The Commission and the appellate courts have expressed a preference for dismissals without prejudice. *See Professional Adjustment Bureau v. Strong*, 75 Ark. 249, 629 S.W.2d 284 (1982)). Respondents at the hearing asked for a dismissal without prejudice. I agree and find that the dismissal of this claim should be and hereby is entered *without prejudice*.¹

IV. CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim is hereby dismissed *without prejudice*.

¹“A dismissal ‘without prejudice’ allows a new [claim] to be brought on the same cause of action.” BLACK’S LAW DICTIONARY 825 (abridged 5th ed. 1983).

REED – H506098

IT IS SO ORDERED.

O. MILTON FINE II
Chief Administrative Law Judge