BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H401716

MICHAEL REUSSER,
EMPLOYEE **CLAIMANT**

G W VAN KEPPEL CO.,
EMPLOYER **RESPONDENT**

TRAVELERS CAS. INS. CO. of AMERICA,
CARRIER/TPA **RESPONDENT**

OPINION FILED JULY 16, 2025

Hearing conducted on Wednesday, June 4, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant, Mr. Michael Reusser, *Pro Se*, of White Hall, Arkansas.

The Respondents were represented by Mr. Guy Alton Wade, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on March 19, 2025. A hearing on the motion was conducted on June 4, 2025, in Little Rock, Arkansas. Claimant, according to the Commission's file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a service technician. The date for Claimant's alleged injury was on December 13, 2023. He reported his injury to Respondent/Employer on the same day. Respondents admitted into the record Respondents' Exhibit 1, pleadings and correspondence, consisting of 9 pages. The Commission admitted into evidence Commission Ex. 1, pleadings, and U.S. Mail return receipt, consisting of 4 pages, *as discussed infra*.

The record reflects that on March 8, 2024, Form AR-C was filed by Claimant's then-attorney, Laura Beth York, with the Commission purporting that Claimant injured his left shoulder, neck, and other whole body. On March 11, 2024, a Form AR-1 was filed with the Commission purporting that Claimant's injuries occurred when he fell from a ladder during an engine repair. Also on March 11, 2024, a Form AR-2 was filed by Respondents accepting compensability of the left shoulder injury. Respondent's counsel, Guy Alton Wade, entered his appearance on April 30, 2024. Claimant's counsel, Laura Beth York, filed a Motion to Withdraw on February 10, 2025; and the Full Commission granted the motion on March 4, 2025.

On March 19, 2025, Respondents' counsel filed a Motion to Dismiss due to Claimant's failure to prosecute his claim. The Claimant was sent, on March 26, 2025, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to his last known address of record. The certified motion notice was claimed by Claimant as noted on the March 29, 2025, return receipt. The Claimant did not respond to the motion in writing as required within twenty days. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on May 5, 2025. The certified notice was claimed according to the May 8, 2025, return notice. The hearing took place on June 4, 2025. And as mentioned before, the Claimant did not show up to the hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Commission has jurisdiction over this claim.

2. The Claimant and Respondents both had reasonable notice of the June 4, 2025, hearing.

3. Respondents have proven by the preponderance of the evidence that Claimant has failed to make a bona fide request for a hearing in more than six months pursuant to ***Ark. Code Ann.*** § 11-9-702(a)(4).

4. The Respondents' Motion to Dismiss should be granted.

5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

Under ***Ark. Code Ann.*** § 11-9-702(a)(4) "If within six (6) months after the filing of a claim for compensation no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice…". Consistent with ***Ark. Code Ann.*** § 11-9-702(a)(4), the Commission scheduled and conducted a hearing, with reasonable notice to the Claimant, on Respondents' Motion to Dismiss hearing date. The certified hearing notice was claimed on May 8, 2025, per the return postal notice bearing the same date. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

Ark. Code Ann. § 11-9-702(a)(4) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of a bona fide request for a hearing within six months. The Claimant filed his Form AR-C on March 8, 2024. Since then, he has failed to request a bona fide hearing. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute his claim by failing to request a bona fide hearing within six months. Thus, Respondents' Motion to Dismiss should be granted.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

IT IS SO ORDERED.

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STEVEN PORCH
Administrative Law Judge