

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H305632**

**ADANNA ROBINSON,  
EMPLOYEE**

**CLAIMANT**

**HINO MOTORS MFG. USA INC.,  
EMPLOYER**

**RESPONDENT**

**FIRST LIBERTY INS. CO.,  
CARRIER/TPA**

**RESPONDENT**

**OPINION FILED JULY 22, 2024**

Hearing conducted on Friday, July 19, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Forrest City, St. Francis County, Arkansas.

The Claimant, Ms. Adanna Robinson, pro se, of West Memphis, Arkansas, did not appear in person at the hearing.

The Respondents were represented by the Honorable Jason M. Ryburn, Little Rock, Arkansas. However, the Honorable Michael Ryburn argued the Motion to Dismiss.

**BACKGROUND**

This matter comes before the Commission on a Motion to Dismiss by Respondents. A hearing was conducted on July 19, 2024, in Little Rock, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing.

The Claimant's alleged injury occurred on May 25, 2023. Admitted into evidence was Respondents' Exhibit 1, Motion to Dismiss, consisting of one (1) page. I have also blue-backed Form AR-C, Form AR-2, a signed certified returned receipt (hearing notice) dated June 17, 2024, and a signed certified return receipt (Motion to Dismiss notice) dated May 25, 2024, and Motion to Dismiss Hearing Notice, *as discussed infra*.

The record reflects on August 29, 2023, a Form AR-C was filed against Canadian Executive Search Group, but this entity could not be located. Therefore, on November 13, 2023,

an alternative Form AR-C, naming Hino Motors as the employer, was filed with the Commission through Claimant's then-attorney, Mark Peoples, purporting a back and wrist injury. This report doesn't state which wrist was injured. Respondents on November 28, 2023, filed a Form AR-2, challenging the compensability of Claimant's alleged injury. In short, this report states that Claimant's injury does not have support for a workers compensation injury. Attorney Mark Alan Peoples entered his appearance on behalf of the Claimant on August 29, 2023. Attorney Jason Ryburn entered his appearance on behalf of the Respondents on January 4, 2024. Attorney Peoples filed a Motion to Withdraw on April 15, 2024. The Motion was granted on May 3, 2024.

The Respondents next filed a Motion to Dismiss on May 6, 2024, requesting this claim be dismissed for a lack of prosecution. The Claimant was sent, certified and regular U.S. Mail, notice of the Motion to Dismiss from my office on April 14, 2024, to her last known address of record. The certified notice was claimed by Claimant on May 25, 2024. Likewise, the notice sent regular U.S. Mail was not returned to the Commission. Claimant did not respond to the notice in writing as required. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at her current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on June 12, 2024. The certified notice was claimed by the Claimant. The hearing took place on July 19, 2024. As mentioned before, the Claimant did not show up to the hearing.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Therefore, after a thorough consideration of the facts, issues, the applicable law, and the evidentiary record, I hereby make the following findings of fact and conclusions of law:

1. The Commission has jurisdiction over this claim.

2. The Claimant and Respondents both had reasonable notice of the July 19, 2024, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under AWCC Rule 099.13.
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

### **DISCUSSION**

Consistent with AWCC Rule 099.13, the Commission scheduled and conducted a hearing, with proper notice, on the Respondents' Motion to Dismiss. The hearing notice was claimed by Claimant on June 17, 2024. Despite receiving this notice, the Claimant did not appear at the hearing. The Respondents, however, appeared on July 19, 2024, and argued their motion. Thus, I find by the preponderance of the evidence that reasonable notice was given to both parties.

AWCC Rule 099.13 allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed her Form AR-C on November 13, 2023. Since then, Claimant has not made a demand for a hearing or has taken any other action in furtherance of prosecuting this claim. In this regard, the Claimant has failed to do the bare minimum in prosecuting her claim, i.e. requesting a hearing. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute her claim by failing to request a hearing. 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 granted and this claim is hereby dismissed *without prejudice*.

**IT IS SO ORDERED.**

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Steven Porch  
Administrative Law Judge