

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H102105

STEPHEN SADLER (DEC'D), Employee	CLAIMANT
PALMETTO ENGINEERING, Employer	RESPONDENT
TRISTAR CLAIMS MANAGEMENT SERVICES, Carrier/TPA	RESPONDENT

OPINION FILED MAY 9, 2023

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Russellville, Pope County, Arkansas.

Claimant not represented by counsel and not appearing at hearing.

Respondent represented by JOSEPH H. PURVIS, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

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

On April 13, 2023, a hearing on Respondents' Motion to Dismiss was conducted in Russellville, Pope County, Arkansas. On January 27, 2023, the respondents filed a Motion to Dismiss and requested that this case be dismissed for lack of prosecution. On March 14, 2023, a hearing notice was sent to the parties setting this matter for a dismissal hearing on April 13, 2023. The claimant's notice was mailed to his widow at her last known mailing address by certified and regular mail. According to United States Postal Service tracking information, that notice was never picked up by the claimant's widow. The claimant's daughter did, however, reach out to the Legal Advisor division of the Commission on February 15, 2023, for an explanation of the respondents filing of the Motion to Dismiss and impending hearing for that motion. The claimant's daughter indicated she or her mother would call back if needed.

The claimant was involved in a single vehicle accident on November 24, 2020, which resulted in his death. No action has been taken by the claimant's family to prosecute this case.

Given the lack of activity or effort to prosecute and move this case forward and the claimant's widow's lack of attendance at the hearing, I do think it is appropriate that I dismiss this matter without prejudice.

After a review of the record as a whole, to include all matters properly before the Commission, and having had an opportunity to hear the statements of Respondent No. 1's attorney, I find that this matter should be dismissed without prejudice for failure to prosecute pursuant to Commission Rule 099.13.

ORDER

Pursuant to the above statement of the case and Commission Rule 099.13, I have no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

If respondents have not already done so, they are directed to pay the court reporter, Veronica Lane, her fees and expenses within thirty (30) days of receipt of her invoice.

IT IS SO ORDERED.

**ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**