

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H104989

MICHAEL D. SAVAGE, EMPLOYEE

CLAIMANT

LEE'S ELECTRIC, LLC, EMPLOYER

RESPONDENT

AUTO-OWNERS INSURANCE CO., CARRIER

RESPONDENT

OPINION FILED DECEMBER 13, 2024

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas on December 3, 2024.

Claimant is represented by Laura Beth York.

Respondents are represented by their attorney, Rick Bearing, Jr. of Little Rock Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on December 3, 2024, in Little Rock, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was represented by Laura Beth York who waived their entry of appearance if the matter was dismissed without prejudice. The Claimant suffered compensable injuries as a result of a work-related injury to his head, brain, and whole body on June 8, 2021. The Form AR-2 provided that the Respondent's accepted the claim as acceptable and the Claimant has continued to receive appropriate benefits. He was released at maximum medical improvement with a permanent anatomical impairment rating and the rating was accepted and paid by the Respondents. The Respondents

stated at the time of the hearing that they continue to stand ready to provide appropriate benefits.

The claimant has failed to take any action in more than six months to pursue this claim. A Motion to Dismiss was filed by the respondents in this matter on September 16, 2024. Appropriate notice was provided to the claimant notifying him that a hearing on the Motion to Dismiss was set for December 3, 2024, in Little Rock, Arkansas. The claimant, through his attorney, waived his appearance to the hearing if the matter was dismissed without prejudice. At the time of the hearing, Rick Behring, Jr. appeared on behalf of the Respondents and asked that the matter be dismissed for lack of prosecution pursuant to A.C.A. 11-9-702(a)(4), 11-9-702(d), and Rule 099.13 of the Commission.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the Respondents, it is found that this matter should be dismissed without prejudice, for failure to prosecute pursuant to A.C.A. 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE