

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H306164

WHITNEY SCRUGGS, EMPLOYEE

CLAIMANT

**EXPRESS SERVICES, INC.
EMPLOYER**

RESPONDENT

**AIU INSURANCE COMPANY/
SEDGWICK CMS, CARRIER/TPA**

RESPONDENT

OPINION AND ORDER FILED NOVEMBER 26, 2025

A Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas, was held on November 18, 2025.

Claimant failed to appear.

Respondents were represented by Carol Worley, of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was originally held in the above styled matter on the 15th day of October, 2024, in Little Rock, Arkansas, on Respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. § 11-9-702(a)(4) and Rule 099.13 of the Arkansas Workers' Compensation Commission, which has been renamed 11 C.A.R. 25-110(d) and will be referred to by that name in the remainder of this opinion. The Claimant was pro se and appeared on the scheduled date of the original Motion to Dismiss hearing, October 15, 2024. An Opinion was entered on October 23, 2024, which provided that the Claimant unequivocally stated he intended to pursue his claim and that due to the fact that Claimant's attorney had been allowed to withdraw, it was found that there was no basis to dismiss the claim at that time.

A second Motion to Dismiss was filed on January 30, 2025, again contending that the claim should be dismissed pursuant to Arkansas Code Ann. § 11-9-702(a)(4) and what is now referred to 11 C.A.R 25-110(d). Multiple hearing dates were scheduled and rescheduled in an attempt to assist the Claimant and a hearing on the Motion to Dismiss was finally held on August 12, 2025, and the Claimant again appeared pro se. An Opinion was issued on August 27, 2025. The Opinion provided that the Motion to Dismiss would be taken under advisement at that time and that the claim should proceed to a hearing pursuant to the statutory law and the rules of the Arkansas Workers' Compensation Commission, in a timely process. The claimant was placed upon notice that failing to respond to discovery, failing to pursue his claim in a timely manner, and failing to keep the Commission notified of his mailing address, could result in the dismissal of his claim, without prejudice. Pursuant to no action of record being taken by the Claimant, a third hearing was scheduled on November 18, 2025.

The third hearing in regard to the dismissal of the claim was scheduled on November 18, 2025, in Little Rock, Arkansas, and the Claimant failed to appear. The respondents were represented by Carol Worley, who again requested that the matter be dismissed without prejudice pursuant to 11 C.A.R. 25 -110(d) of the Arkansas Workers' Compensation Commission for failure to prosecute, or in the alternative that the matter be dismissed without prejudice pursuant to A.C.A. § 11-9-702(a)(4), which provided for dismissal of a claim if no bona fide request for a hearing had been made within six (6) months of the filing of his claim. No response was filed by the Claimant in regard to the motion. The Respondents alleged that the Claimant had taken no steps to prosecute his claim within six months, after two previous Motion to Dismiss hearings.

After proper notice, a hearing was held on November 18, 2025, and the Claimant failed to appear. The Respondents were represented by Carol Worley, who walked out into the waiting room to again check to see if the Claimant had appeared, even though the time was now fifteen minutes after the scheduled start time for the hearing. There was no record of a request for a hearing being made within six months of the filing of the claim or from the filing of the second Motion to Dismiss, and no record of any action taken to prosecute the claim.

ORDER

Pursuant to the above statement of the case, documents entered into the record, and statements by the Attorney for the Respondents, there is no alternative but to grant the Motion to Dismiss without prejudice pursuant to 11 C.A.R. 110(d) of the Arkansas Workers' Compensation Commission and A.C.A. § 11-9-702(a)(4).

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE