

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM Nos H010556 & H205950

SHANNA SHELTON, EMPLOYEE

CLAIMANT

CRESTPARK STUTTGART LLC, EMPLOYER

RESPONDENT

**ARK SELF-INSURANCE TRUST/CCMSI
CARRIER/TPA**

RESPONDENT

OPINION FILED MARCH 23, 2023

**Hearing before Administrative Law Judge JayO. Howe in Little Rock, Pulaski
County, Arkansas, on March 22, 2023.**

Claimant is *pro se* and failed to appear.

**Respondents are represented by Worley, Wood & Parrish, P.A. Ms. Melissa Wood
appeared.**

STATEMENTS OF THE CASE

A hearing was held in the above-styled claims on March 22, 2023, on the respondents' Motion(s) to Dismiss for failure to prosecute under Arkansas Workers' Compensation Commission (AWCC) Rule 099.13. The claims involve alleged workplace injuries sustained on or about October 5, 2020, and August 13, 2022, for Claims H010556 and H205950, respectively. Both claims stated occupational diseases related to exposure to COVID-19.

As evidenced in Respondents' Exhibit № 1, admitted into the record without objection, several forms were filed with the Commission regarding either or both claims. Claimant filed a Form AR-C for Claim H205950 on August 19, 2022. The respondents denied compensability by way of a Form AR-2 dated August 29, 2022. On September 12, 2022, the Commission received a letter from the claimant stating, "I Shanna Shelton do want to appeal my working [sic] compensation case & do agree [sic?] with the decision!" The

file reflects a September 28, 2022, memorandum from the AWCC Legal Advisor Division that notes an effort to mediate the claims. The parties met on October 26, 2022, but per the form AR-R dated the same day, no resolution was achieved.

Subsequently, a Preliminary Notice and Pre-hearing Questionnaire were sent to the claimant, directing Questionnaire responses and exhibits to be filed no later than November 23, 2022. The Commission received no responsive documents or communications. The respondents then moved for dismissal under AWCC Rule 099.13 on January 11, 2023. The Commission sent notice of that motion to the claimant on January 19, 2023, directing any written response to be filed within twenty (20) days. The files evidence no such responsive documents. A hearing on the dismissal was set for March 22, 3023, and notice of the same was sent to the claimant on February 21, 2023.

As noted above, the claimant failed to appear for the March 22, 2023, hearing. Ms. Wood appeared for the respondents, presenting argument and evidence of the claimant's failure to diligently prosecute her claims and her failure to submit a bona fide request for a hearing on any matter ripe for adjudication since the filing of the AR-C. Indeed, my review of the papers evidences the same.

After a review of the records before me as a whole, to include all evidence properly before the Commission, and having had an opportunity to hear the statements of the respondents' attorney, to which there was no rebuttal or resistance on behalf of the claimant, there is no alternative but to find that the Motion(s) to Dismiss should be granted at this time for the claimant's failure to prosecute her claim and that the matter should be dismissed without prejudice.

ORDER

Dismissal of AWCC Claim Nos H010556 & H205950 is hereby be granted. These claims are dismissed without prejudice.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE