

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO.: H003750**

ANTHONY STERLING, Employee	CLAIMANT
J. CUMBY CONSTRUCTION, INC., Employer	RESPONDENT
TRAVELERS PROPERTY & CASUALTY CO., Carrier	RESPONDENT

OPINION AND ORDER FILED APRIL 20, 2021

Hearing conducted before ADMINISTRATIVE LAW JUDGE TERRY DON LUCY, in Pulaski County, Arkansas.

Counsel for the Claimant: HONORABLE MARK A. PEOPLES, Attorney at Law, Little Rock, Arkansas.

Counsel for the Respondents: HONORABLE AMY C. MARKHAM, Attorney at Law, Little Rock, Arkansas

The above-captioned matter came on for a hearing on April 15, 2021, upon the Respondents' Motion to Dismiss, filed with the Commission on January 29, 2021. The Claimant and his Counsel were served with said Motion by the Respondents. Counsel for the Claimant subsequently advised the Commission by way of electronic correspondence dated February 4, 2021, that the Claimant did not object to a dismissal of his claim without prejudice. As further reflected in the Commission's file, incorporated by reference herein without objection from the only appearing party, e.g., Counsel for the Respondents (TR at 4), Counsel for the Claimant undertook efforts on February 4, 2021, to have his client complete and return Interrogatories in Support of an Agreed Order of Dismissal but had heard nothing further from his client as of March 1, 2021. Accordingly, this matter was set for a hearing to be held on April 15, 2021, in relation to which Counsel for the Claimant waived appearance by way of electronic communication to the Commission dated April 1, 2021.

Counsel for the Respondents appeared for the hearing at the duly appointed time of 1:30

P.M. When the hall was sounded at approximately 1:43 P.M. by Counsel for the Respondents (TR at 3-4), neither the Claimant nor his Counsel were present (with the latter's waiver of appearance noted) and did not appear during the ensuing proceedings. Following sounding of the hall, the Commission's file herein was incorporated by reference into the record without objection. (TR at 5)

It is clear from the Commission's file that the Claimant herein filed a Form AR-C on June 23, 2020, has made no hearing request since that date nor undertaken any measures to otherwise prosecute his claim, and has made little or no effort to communicate with his own Counsel since at least February 4, 2021.

Based upon my review and consideration of the Commission's file, statements made by Counsel for the Respondents during the hearing, the Claimant's failure to object or otherwise respond to the Respondents' Motion, and the Claimant's failure to appear at the scheduled hearing, I specifically find that the Claimant has failed to timely prosecute his claim within the meaning of Commission Rule 099.13 and Ark. Code Ann. §11-9-702 and that such should be dismissed without prejudice.

The above-captioned matter is respectfully dismissed without prejudice effective April 15, 2021, on which date the Respondents' Motion was granted from the bench. The above-captioned matter will be returned to the Commission's general files. The Respondents are ordered and directed to pay the court reporter's fee within thirty (30) days of billing for such pursuant to Commission Rule 099.20.

IT IS SO ORDERED.

Honorable Terry Don Lucy
ADMINISTRATIVE LAW JUDGE