

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H301866**

**CHRISTOPHER L. STEVENS,
EMPLOYEE**

CLAIMANT

**AREA AGENCY ON AGING, WEST CENTER,
EMPLOYER**

RESPONDENT

**AGING SERVICES FUND/
RISK MG'T RESOURCES, INC.,
INSURANCE CARRIER/TPA**

RESPONDENT

**OPINION FILED DECEMBER 14, 2023,
GRANTING RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE**

Hearing conducted on Wednesday, December 13, 2023, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Mr. Christopher L. Stevens, pro se, of Hot Springs, Garland County, Arkansas, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Melissa Wood, Worley, Wood & Parrish, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Wednesday, December 13, 2023, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2023 Lexis Replacement) and Commission Rule 099.13 (2023 Lexis Repl.).

The respondents filed a motion to dismiss with the Commission on October 24, 2023, requesting this claim be dismissed without prejudice for lack of prosecution. (Respondents' Exhibit 1). In accordance with applicable Arkansas law the claimant was mailed due and proper legal notice of the respondents' motion to dismiss, as well as a copy of the hearing notice at his addresses of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt requested. Thereafter, the claimant never responded to the subject motion to dismiss; he

did not request a hearing, and he did not contact the Commission by any means of communication, nor did he cause anyone to respond to the motion on his behalf. Furthermore, the claimant failed and/or refused to appear at the subject hearing, and he failed and/or refused to cause anyone to appear on his behalf at the subject hearing.

The record herein consists of the hearing transcript and any and all exhibits contained therein and/or attached thereto. (RX 1).

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' motion to dismiss. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant has failed and/or refused to prosecute his claim as required by the applicable statute and Commission rule.

Therefore, after a thorough consideration of the facts, issues, the applicable law, representations of the respondents' highly credible counsel, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having been mailed due and legal notice of the respondents' motion to dismiss, as well as due and legal notice of the subject hearing, the claimant neither responded to the motion in any way whatsoever, nor did he cause anyone to respond to the subject motion on his behalf. In addition, the claimant failed and/or refused to appear at the hearing, nor did he cause anyone to appear at the hearing on his behalf. Therefore, he has waived his right to a hearing on the respondents' motion to dismiss.
3. Moreover, the claimant has failed to prosecute his claim in any way whatsoever, as to date he has neither requested a hearing nor has he

taken any action(s) whatsoever to pursue and/or to prosecute his claim.

4. Therefore, the respondents' motion to dismiss without prejudice filed with the Commission on October 24, 2023, should be and hereby is GRANTED pursuant to both *Ark. Code Ann.* Section 11-9-702(a)(4) and Commission Rule 099.13.

Nothing in this opinion shall prevent or be construed to prevent the claimant or anyone acting with his authority and on his behalf from re-filing this claim so long as it is re-filed within the applicable deadlines specifically set forth in the Act.

The respondents shall pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp