

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H400804**

**JAVIER VILLAR SAUCEDO,  
EMPLOYEE**

**CLAIMANT**

**RBD HOLDINGS LLC,  
EMPLOYER**

**RESPONDENT**

**OLD REPUBLIC INS. CO.,  
INSURANCE CARRIER**

**RESPONDENT**

**CCMSI,  
TPA**

**RESPONDENT**

**OPINION FILED DECEMBER 3, 2024**

Hearing conducted on Friday, November 8, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Jonesboro, Craighead County, Arkansas.

The Claimant, Mr. Javier Villar Saucedo, *Pro Se*, of Blytheville, Arkansas, did not appear in person at the hearing.

The Respondents were represented by the Honorable Eric Newkirk, Little Rock, Arkansas.

**I. BACKGROUND**

This matter comes before the Commission on a Motion to Dismiss filed by Respondents. A hearing on the motion was conducted on November 8, 2024, in Little Rock, Arkansas. Claimant, according to Commission file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a driver. The date for Claimant's alleged injury was on January 8, 2024. He reported his injury to Respondent/Employer on February 6, 2024. Respondents admitted Respondents' Exhibit 1, pleadings, consisting of 28 pages. Also admitted into evidence was a blue-backed copy of certified return receipt dated October 16, 2024, and a copy of certified return receipt dated September 25, 2024, *as discussed infra*.

The record reflects on February 2, 2024, a Form AR-C was filed with the Commission, by then-attorney Mark Peoples, purporting that Claimant worked for Big River Steel when he injured his finger. On February 8, 2024, a Form AR-1 was filed with the Commission purporting that Claimant's type of injury to his finger was a strain. Also on February 8, 2024, a Form AR-2 was filed by Respondents denying compensability and the existence of an employer/employee relationship. Claimant's then-counsel, Mark Peoples, filed an amended Form AR-C on February 7, 2024, naming RBD Holdings, LLC, as Claimant's employer. Respondent/Employer RBD Holdings, LLC, filed a Form AR-1 on February 16, 2024, acknowledging alleged finger injury. On February 16, 2024, Respondents, RBD Holdings, LLC also filed a Form AR-2 denying compensability and the existence of an employer/employee relationship. Hereinafter the term "Respondents" shall include RBD Holdings, LLC as the Respondent/Employer, not Big River Steel. Big River Steel filed a Form AR-4, on February 20, 2024, closing its file on Claimant.

On May 6, 2024, Claimant's counsel filed a Motion to Withdraw as Counsel. The reason for the Motion was Claimant's consistent lack of communication with his counsel. The Full Commission granted Claimant's counsel Motion on May 23, 2024.

The Respondents next filed a Motion to Dismiss on August 7, 2024, requesting this claim be dismissed for a lack of prosecution. The Claimant was sent, certified and regular U.S. Mail, notice of the Motion to Dismiss from my office on September 10, 2024, to his last known address. The certified motion notice was returned to the Commission on the September 25, 2024. The motion notice was also sent regular U.S. Mail and was not returned to the Commission. Claimant did not respond to the Motion, in writing, as required. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date to his current address of record via the United States Postal Service (USPS),

First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on October 4, 2024. The certified notice was returned to the Commission on October 16, 2024. The first-class notice sent was not returned. The hearing took place on November 8, 2024. And as mentioned before, the Claimant did not show up to the hearing.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record as a whole and other matters properly before the Commission, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Commission has jurisdiction over this claim.
2. The Claimant and Respondents both had reasonable notice of the November 8, 2024, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under AWCC Rule 099.13.
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

## **III. DISCUSSION**

AWCC 099.13 provides:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

*See generally Johnson v. Triple T Foods*, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with AWCC Rule 099.13, the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. The certified hearing notice was returned to the Commission on October 16, 2024, per the return postal notice bearing the same date. However, the notice that was sent first-class U.S. Mail did not return to the Commission. Thus, I find by the preponderance of the evidence that reasonable notice was given to both parties.

AWCC Rule 099.13 allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed his Form AR-C on February 7, 2024. Since then, he has failed to request a bona fide hearing. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute his claim by failing to request a hearing. Thus, Respondents' Motion to Dismiss should be granted.

### **CONCLUSION**

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

**IT IS SO ORDERED.**

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STEVEN PORCH  
Administrative Law Judge