

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H504160**

FRANKLIN R. STODDARD, EMPLOYEE	CLAIMANT
CITY OF JONESBORO, SELF-INSURED EMPLOYER	RESPONDENT
ARKANSAS MUNICIPAL LEAGUE, THIRD-PARTY ADM'R	RESPONDENT

OPINION FILED APRIL 20, 2025

Hearing before Administrative Law Judge O. Milton Fine II on April 17, 2026, in Jonesboro, Craighead County, Arkansas.

Claimant, *pro se*, not appearing.

Respondents represented by Ms. Mary K. Edwards, Attorney at Law, North Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on the Motion to Dismiss by Respondents. A hearing on the motion was conducted on April 17, 2026, in Jonesboro, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing. Admitted into evidence were Commission Exhibit 1 (see Ark. Code Ann. § 11-9-705(a)(1) (Repl. 2012)(Commission must “conduct the hearing . . . in a manner which best ascertains the rights of the parties”) and Respondents’ Exhibit 1, forms, pleadings, and correspondence related to this claim, consisting of 15 and 8 pages, respectively.

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The record shows the following procedural history:

Per the First Report of Injury or Illness that was filed on July 3, 2025, Claimant purportedly suffered a back injury at work on June 13, 2025, when he was moving extension stands on a trailer. According to the Form AR-2 that was filed on July 8, 2025, Respondents accepted the claim as a medical-only one.

On July 24, 2025, through then-counsel Mark Peoples, Claimant filed a Form AR-C. Therein, he requested the full range of initial and additional benefits in connection with his back injury. In electronic correspondence accompanying this filing, Peoples wrote: “I am not asking for a hearing.” In response to this, Respondents reversed course. In a letter to the Commission dated July 28, 2025, Tori Hersey, Claims Adjuster for the Arkansas Municipal League, wrote:

We are in receipt of your correspondence dated 07/28/2025 regarding the AR-C filed on the above-referenced claim. Please let this serve as our timely response.

This claim has been denied. The First Report of Injury and AR-2 were previously filed with your office.

Peoples moved to withdraw from his representation of Claimant on September 13, 2025. In an Order entered on October 8, 2025, the Full Commission granted the motion pursuant to AWCC Advisory 2003-2.

The record reflects that nothing further took place on the claim until February 18, 2026. On that date, Respondents’ counsel entered her appearance and filed the instant motion under AWCC R. 099.13 (now codified as 11 C.A.R. § 25-110(d)) and Ark. Code Ann. § 11-9-702(a)(4), asking for dismissal of the claim

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because Claimant has not made a hearing request on the claim since its filing. On February 20, 2026, my office wrote Claimant, asking for a response to the motion within 20 days. The letter was sent by first class and certified mail to the Blytheville, Arkansas address for Claimant that was listed in the file and on his Form AR-C. The certified letter was claimed, on February 24, 2026; and the first-class letter was not returned. Regardless, no response to the motion was forthcoming. On March 13, 2026, a hearing on the Motion to Dismiss was scheduled for April 17, 2026, at 2:00 p.m. at the Craighead County Courthouse in Jonesboro. The certified mailing of the Notice of Hearing to Claimant was delivered to Claimant on March 23, 2026; and the first-class mailing of the same document was not returned.

The hearing on the Motion to Dismiss proceeded as scheduled. Again, Claimant failed to appear at the hearing. But Respondents appeared through counsel and argued for dismissal under aforementioned authorities.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following Findings of Fact and Conclusions of Law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this matter.

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2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.
3. The evidence preponderates that Claimant has failed to prosecute his claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted; this claim is hereby dismissed without prejudice under 11 C.A.R. § 25-110(d).

III. DISCUSSION

11 C.A.R. § 25-110(d) (formerly AWCC R. 099.13) reads:

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).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

As shown by the evidence recounted above, (1) the parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon; and (2)

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Claimant has failed to pursue his claim because he has taken no steps to pursue it (including appearing at the April 17, 2026, hearing to argue against its dismissal) since the filing of his Form AR-C on July 24, 2025. Thus, the evidence preponderates that dismissal of the claim is warranted under 11 C.A.R. § 25-110(d). Because of this finding, the applicability of § 11-9-702(a)(4) is moot and will not be addressed.

That leaves the question of whether the dismissal of the claim should be with or without prejudice. The Commission possesses the authority to dismiss claims with prejudice. *Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App. 137, 744 S.W.2d 402 (1988). The Commission and the appellate courts have expressed a preference for dismissals without prejudice. *See Professional Adjustment Bureau v. Strong*, 75 Ark. 249, 629 S.W.2d 284 (1982)). Respondents at the hearing asked for a dismissal without prejudice. Based on the foregoing, I agree and find that the dismissal of this claim should be and hereby is entered *without prejudice*.¹

IV. CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim is hereby dismissed *without prejudice*.

¹“A dismissal ‘without prejudice’ allows a new [claim] to be brought on the same cause of action.” BLACK’S LAW DICTIONARY 825 (abridged 5th ed. 1983).

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IT IS SO ORDERED.

O. MILTON FINE II
Chief Administrative Law Judge