

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC NO. H103130

LUIS TAPIA, Employee

CLAIMANT

CONAGRA FOODS, Employer

RESPONDENT

INDEMNITY INSURANCE CO. OF NO. AMERICA, Carrier

RESPONDENT

OPINION/ORDER FILED MARCH 8, 2022

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Russellville, Pope County, Arkansas.

Claimant not represented by counsel and not appearing at hearing.

Respondents represented by MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

OPINION/ORDER

On March 3, 2022, a hearing on Respondents' Motion to Dismiss was conducted in Russellville, Arkansas. On October 4, 2021, respondents filed a Motion to Dismiss and requested that this case be dismissed for lack of prosecution. On January 3, 2022, a hearing notice was sent to the claimant setting this matter for a dismissal hearing on March 3, 2022. United States Post Office records indicate that that the notice was delivered to claimant on January 7, 2022. Despite having received notice of the hearing, the claimant failed to appear at the hearing and has not contacted the Commission in any manner to set forth an objection to his claim being dismissed.

Claimant filed a Form C with the Commission on April 1, 2021. This form was filed by Rainwater, Holt and Sexton, and thereafter a Motion to Substitute Counsel to Gary Davis was filed on May 24, 2021. On November 2, 2021, an Order was filed allowing Mr. Davis to withdraw as attorney of record for the claimant. A hearing on respondents' Motion to Dismiss which was previously scheduled for December 20, 2021 was canceled in order to allow claimant the opportunity to respond to the

withdrawal request and/or the respondents' motion to dismiss. No communication was received by the claimant setting forth any objection to either request. Thereafter, the hearing on respondents' motion to dismiss was reset for March 3, 2022 and is the subject of this opinion. As indicated above, claimant received notice of the hearing but did not appear on the scheduled date.

After a review of the respondents' Motion to Dismiss and their arguments in support of said motion; the claimant's failure to appear at the scheduled hearing; as well as all other matters properly before the Commission, I find that the respondents' Motion to Dismiss this claim should be and hereby is granted pursuant to Rule 099.13 of the Arkansas Workers' Compensation Commission. This dismissal is without prejudice.

IT IS SO ORDERED.

ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE