

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO.: H003016**

TERRY TIDWELL, Employee	CLAIMANT
STEVE WALKER TIRE, INC., Employer	RESPONDENT
EMPLOYERS MUTUAL CASUALTY CO., Carrier	RESPONDENT

OPINION AND ORDER FILED FEBRUARY 9, 2021

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

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: Honorable Karen H. McKinney and Honorable Lauren Spencer; Attorneys at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on January 26, 2021, with respect to the Respondents' Motion to Dismiss filed with the Commission on December 1, 2020. During such hearing, the Commission's file was incorporated by reference into the record with no objection from the only appearing party, the Respondents herein.

As reflected in the Commission's file, the Respondents served their Motion upon the Claimant; in addition, the Commission likewise advised the Claimant of the Respondents' Motion by way of certified and first-class mail dated December 7, 2020, with a responsive pleading thereto required on or before December 28, 2020. As further reflected in the Commission's file, and by way correspondence received by the Commission on December 17, 2020, the Claimant advised that he had "no objection to end this matter."

Notice of the hearing to be held on January 26, 2021, was thereafter sent to the Claimant, inclusive of certified and first-class mail dated December 28, 2020, with the Claimant's receipt of such recorded courtesy of the United States' Postal Service dated December 31, 2020, also included in the Commission's file. It further appears from the Commission's file that the Claimant's previous

Counsel had been allowed to withdraw from this matter by way of a Full Commission Order entered on October 13, 2020. Moreover, the Commission's file reflects that the Claimant filed a Form AR-C with the Commission on May 20, 2020, and has not requested a hearing since that date.

The Claimant did not appear when the hall was sounded at the appointed time for the hearing held on January 26, 2021, nor did he appear during the ensuing proceedings.

Given the Claimant's lack of objection to the Respondents' Motion, corresponding failure to appear at the hearing held on January 26, 2021, and failure to request a hearing on the merits of his claim since May 20, 2020, I specifically find that the Claimant has failed to prosecute his claim and that dismissal thereof without prejudice is warranted pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13 for lack of prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective January 26, 2021, and the Respondents are ordered and directed to pay the court reporter's fee within thirty (30) days of billing for such.

IT IS SO ORDERED.

TERRY DON LUCY
Administrative Law Judge