

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**WCC NO. H003953**

**SAMUEL TILOTTA, Employee**

**CLAIMANT**

**DOLLAR GENERAL, Employer**

**RESPONDENT**

**YORK RISK SERVICES GROUP, INC., Carrier/TPA**

**RESPONDENT**

**OPINION FILED APRIL 11, 2023**

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant not represented by counsel and not appearing at hearing.

Respondent represented by DAVID C. JONES, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

On October 3, 2021, the claimant's previous attorney, Laura Beth York, filed a Prehearing Questionnaire with the Commission requesting a hearing on the claimant's right to receive permanent partial disability benefits. The hearing request was withdrawn by Ms. York on October 5, 2021, indicating issues had been resolved. Ms. York filed a Motion to Withdraw as Counsel with the Commission on October 13, 2021. October 29, 2021, the Full Commission entered an Order allowing her to withdraw as Claimant's counsel. No further action was taken on this claim.

On November 30, 2022, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for February 2, 2023. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on December 21, 2022. United States Postal Department records indicate that claimant received and

signed for the notice on December 28, 2022. On January 3, 2023, Claimant notified the Commission that he wished to request a hearing for additional benefits, but later decided to withdraw that request and submitted a Withdrawal of Hearing Request and Waiver of Appearance with the Commission on January 24, 2023. Due to inclement weather, the Motion to Dismiss hearing was rescheduled to March 2, 2023.

After a review of the respondents' Motion to Dismiss, the claimant's lack of desire to pursue his claim, and his waiver of appearance at the scheduled hearing, as well as all other matters properly before the Commission, I find that the respondents' Motion to Dismiss should and hereby is granted pursuant to Commission Rule 099.13. This dismissal is without prejudice.

**IT IS SO ORDERED.**

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**ERIC PAUL WELLS**  
**ADMINISTRATIVE LAW JUDGE**