

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC FILE № H502993**

CHARLES J. TRISTIAN, EMPLOYEE

CLAIMANT

WINGSTOP, EMPLOYER

RESPONDENT

CHARTER OAK FIRE INS. CO., CARRIER

RESPONDENT

OPINION FILED 2 FEBRUARY 2026

Heard before Arkansas Workers' Compensation Commission ("the Commission")
Administrative Law Judge JayO. Howe on 14 January 2026 in Little Rock, Arkansas.

The *pro se* claimant failed to appear.

Friday, Eldredge & Clark, LLP, Mr. Guy Alton Wade, appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 14 January 2026. This case relates to an alleged workplace injury occurring on 7 May 2025. The record from the hearing consists of the transcript; Respondents' Exhibit № 1, which consisted of nine pages of documents and pleadings in support of their motion; and Commission's Exhibit № 1, three pages that included a Form AR-C filed by the claimant and two Postal Service delivery receipts from Commission correspondence with the claimant.

The record showed that the claimant filed a Form AR-C on 13 May 2025 alleging an injury on 7 May 2025. On 27 May 2025, the respondents filed a First Report of Injury indicating an alleged eye injury that had been reported to them on 7 May 2025. They subsequently filed a Form AR-2 indicating that the claim was being denied.

The respondents later requested that this claim be dismissed for the claimant's failure to prosecute his claim under the Commission Rule at 11 C.A.R. § 25-110(d). They

stated that the claimant had failed to participate in their efforts to conduct discovery and noted that he had not requested a hearing on any issue ripe for litigation.

Notice of the respondents' motion was sent to the claimant, consistent with Commission practices, via First Class Mail and Certified Mail. Notice of a hearing on the respondents' motion was sent in the same manner. Two Postal Service delivery receipts evidence that the claimant received those notice letters. The record does not reflect any responsive filings from the claimant; and he did not attend the hearing to object to the dismissal of this claim.

FINDINDGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, 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 matter.
2. The parties were provided with reasonable notice of the Motion to Dismiss and the hearing on the motion.
3. The evidence preponderates that the 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 dismissed without prejudice under 11 C.A.R. § 25-110(d).

DISCUSSION

The respondents appeared on 14 January 2026 and presented their motion. As argued by the respondents at the hearing, 11 C.A.R. § 25-110(d) provides for a dismissal for failure to prosecute an action upon application by either party and reasonable notice. As noted above, notice of the respondents' motion and notice of the scheduling of the hearing was provided to the claimant.

The respondents argue that the claimant has failed to cooperate in their attempts to conduct discovery that is relevant and necessary in the prosecution of this claim.

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Additionally, the claimant has not requested a hearing on any issue in his claim. No objection was filed to the respondents' motion to dismiss this claim. Further, the claimant did not appear at the hearing to resist the dismissal of his claim. Based on the evidence presented, a dismissal without prejudice is appropriate.

ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE