

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC CLAIM NO.: H001417**

TRAVIS R. TUNSTALL, Employee	CLAIMANT
MAVERICK TRANSPORTATION, Self-Insured Employer	RESPONDENT
CORVEL ENTERPRISE COMPANY, INC., TPA	RESPONDENT

OPINION AND ORDER FILED JUNE 15, 2021

Hearing conducted before Administrative Law Judge Terry Don Lucy, in Craighead County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: Honorable David C. Jones; Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on June 11, 2021, with respect to the Respondents' Motion to Dismiss originally filed with the Commission on March 15, 2021. When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did he appear during the ensuing proceedings. Respondents' Exhibit No. 1 was subsequently introduced into the record without objection. In addition, the Commission's file, inclusive of the Respondent's Motion along with its accompanying Certificate of Service reflecting the Claimant's last known address (noted below), is deemed incorporated by reference into the record and for purposes of this Opinion and Order.

The Commission's file reflects that notice of the Respondents' Motion was sent to the Claimant via certified and first-class mail from the Commission dated April 15, 2021, to his last known address of 1212 Highland Blvd., Pocahontas, AR, 72455, and that such was returned to the Commission by the United States Postal Service (hereinafter "USPS") on May 8, 2021, following two attempts to deliver such on April 20 and 28, 2021, with said returned mail thereafter received by the Commission on May 19, 2021, labeled as "Unclaimed" and "Unable to Forward" by the

USPS. There is no indication in the Commission's file or Respondents' Exhibit No. 1 that the Claimant has provided either with a change-of-address. Notice of the hearing scheduled for June 11, 2021, was also sent to the Claimant by the Commission via certified and first-class mail dated May 10, 2021. Given the Claimant's failure to provide a change-of-address at any point in the above-captioned matter, his failure to appear at the scheduled hearing was anything but surprising.

The Commission's file and Respondents' Exhibit No. 1 further reflect that the Claimant initially requested a hearing without a formal Form AR-C filing on March 10, 2020, but subsequently agreed to mediation as did the Respondents, and that efforts to schedule such thereafter have failed with the Claimant taking no further action since March 10, 2020.

Given the Claimant's lack of objection to the Respondents' Motion, corresponding failure to appear at the hearing held on June 11, 2021, and apparent failure to request a hearing on the merits of his claim since March 10, 2020, I specifically find that the Claimant has failed to prosecute his claim in a timely manner 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 June 11, 2021, and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

TERRY DON LUCY
Administrative Law Judge