

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. G906232**

SANDRA M. WILKIE, EMPLOYEE	CLAIMANT
JOS. A. BANK CLOTHIERS, INC., EMPLOYER	RESPONDENT
SAFETY NATIONAL CASUALTY CORP. / GALLAGHER BASSETT SERVICES, INC., CARRIER/TPA	RESPONDENT

OPINION FILED JANUARY 19, 2022

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas.

Claimant is *pro se* and failed to appear.

Respondents are represented by David Jones, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on January 11, 2022, in Little Rock, Arkansas, on Respondents' Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was originally represented by Laura Beth York, who was allowed to withdraw from the case by an Order from the Full Commission dated March 18, 2021. Claimant was *pro se* at the time of the hearing and had waived her appearance for the hearing. The claimant was employed by the respondent Joseph A. Bank on May 28, 2019, when she sustained accidental injuries to her left shoulder and neck arising out of and in the course and scope of her employment, and the claim was accepted as compensable. The claimant continued to work and had no lost time issues, until what appeared to be July 2019, with sporadic lost time thereafter. On or about December 24, 2019, the claimant underwent surgery at the direction of Dr. Justin Seale and on May 20, 2020, Doctor Seale

released her to return to work in a regular capacity with no restrictions and assigned a ten percent (10%) partial disability rating. On May 21, 2021, the respondents suspended temporary total disability benefits and initiated the Claimant's permanent partial disability benefits. The respondents paid the claimant \$14,396.48 in temporary total disability benefits.

On or about May 27, 2020, the claimant returned to work for the respondents, and it is understood that the claimant continues to work for the respondents. On or about March 29, 2021, the respondents paid out the claimant's anatomical impairment rating, for total payments on the impairment rating of \$23,445.00. No action has been taken in over six (6) months in regard to this claim. A Motion to Dismiss was filed on or about October 22, 2021.

An appropriate notice setting this matter for a hearing for a Motion to Dismiss was provided to the claimant by both certified and regular mail. A hearing was set for January 11, 2022, in regard to the Motion to Dismiss. The claimant did not file a response, but did sign a waiver of appearance, and did not appear on the hearing date in Little Rock, Arkansas. At the time of the hearing, David Jones appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondents, there is no alternative but to find that this matter should be dismissed for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

**JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE**