BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H506372

KEITH WILLIAMS, EMPLOYEE	CLAIMANT
ESTES EXPRESS LINES, EMPLOYER,	RESPONDENT
AUI INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT
GALLAGHER BASSETT SERVICES, INC., THIRD PARTY ADMINISTRATOR	RESPONDENT

OPINION FILED OCTOBER 20, 2026

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant, Pro Se, did not appear.

Respondents represented by the Honorable Rick Behring, Jr., Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on October 20, 2026, in the present matter pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012) and Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)).

Appropriate notice of this hearing was tried on all parties to their last known address, in the manner prescribed by law.

The record consists of the transcript of the October 20, 2026, hearing and the documents contained therein. In that regard, Commission's Exhibit 1 consisting of two numbered pages; and

Respondents' Exhibit 1 is a Hearing Exhibit encompassing nine numbered pages, and a cover sheet.

No testimony was taken.

BACKGROUND

On September 27, 2025, the Claimant alleged that he sustained compensable injuries to his head, and neck shoulder a result of specific incident injury during and within the course and scope of her employment with respondent-employer, Estes Express Lines. The Claimant's former attorney filed a Form AR-C on behalf of the Claimant on October 6, 2025. Per this document, the Claimant requested both initial and additional workers' compensation benefits.

The respondent-insurance-carrier filed a Form AR-2 with the Commission on November 30, 2025, wherein they accepted the claim as compensable.

There was no action taken by the Claimant to prosecute his claim nor did he request a bona fide hearing.

The Claimant's former attorney moved to withdraw as counsel of record for the on June 28, 2026. The Full Commission granted this motion for the Claimant's attorney to withdraw as counsel of record in this matter.

Therefore, on August 17, 2026, the Respondents filed a Motion to Dismiss and Incorporated Brief in Support with the Commission, along with a Certificate of Service to the Claimant. Hence, the Respondents served a copy of the foregoing pleading on the Claimant by depositing a copy thereof, postage prepaid, in the United States Mail to his last known address.

On August 24, 2026, the Commission wrote a letter notifying the Claimant of the Respondents' motion to dismiss claim and asked that he file a written response to the motion within

twenty (20) days. Said letter was sent to the Claimant by both first-class mail and certified mail to the address listed by the Claimant with the Commission via the United States Postal Service.

Per tracking information received from the Postal Service, the letter notice sent by certified mail to the Claimant was delivered to his home on August 27, 2026. The signature of the recipient taking delivery of said letter bears the Claimant's signature. Moreover, regarding the letter sent by first-class mail, it has not been returned to the Commission.

The Commission sent a Notice of Hearing to the parties on September 16, 2026, scheduling the dismissal hearing for October 20, 2026, at the Commission in Little Rock, Arkansas. Said hearing notice was sent to the Claimant by both first-class and certified mail to the same address as before.

Per tracking information received from by the Commission from the United States Postal Service, the hearing notice sent via certified mail was returned to the Commission on September 21, 2026. However, the hearing notice sent by first-class mail has not been returned to the Commission.

Thus, the evidence preponderates that notice of the dismissal hearing was made upon the Claimant.

Still, there was no response from the Claimant.

A hearing was in fact held on the Respondents' motion for dismissal of this claim. The Claimant failed to appear at the hearing. However, the Respondents appeared through their attorney. Respondents moved that the claim be dismissed for a lack of prosecution. Counsel noted that the Claimant has never made a bona fide request for a hearing since the filing of his claim on October 6, 2025, which was clearly more than six (6) months ago. As such, Counsel asked that the claim be dismissed *without prejudice* under the statutory provisions of Ark. Code

Ann. §11-9-702 (Repl. 2012), and/or Arkansas Workers' Compensation *Commission Rule 099.13* (now codified at 11 C.A.R. § 25-110 (d)).

DISCUSSION

The statutory provisions and Commission Rule applicable in this claim are outlined below.

Specifically, Ark. Code Ann. §11-9-702(a)(4) provides:

> If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within the limitation periods specified in subdivisions (a)(1)-(3) of this section.

Ark. Code Ann. §11-9-702(d) reads:

> If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, if necessary, be dismissed without prejudice to the refiling of the claim within the limitation period specified in subsection (b) of this section.

Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)) states:

> The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.
>
> In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.
>
> Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution. (Effective March 1, 1982)

A review of the evidence in this matter shows the Claimant has failed to make a bona fide request for a hearing with respect to his claim for workers' compensation benefits since the filing

of his claim more than a year ago. Hence, no probative action whatsoever has been put forth by the Claimant to resolve or otherwise pursue his claim. Despite having received proper notice of the dismissal hearing, the Claimant did not appear at the hearing to object to his case being dismissed.

Accordingly, based on my review of the documentary evidence, and all other matters properly before the Commission, I find that the Respondents' motion to dismiss this claim is well founded under the provisions of Ark. Code Ann. §11-9-702 (a)(4), §11-9-702 (d), and Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)), of this Commission. Said dismissal is *without prejudice*, to the refiling of this claim within the limitation period specified by law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Because of 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 Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. A Form AR-C was filed in this matter on October 6, 2025. Since this time, the Claimant has not requested a hearing.

3. The Respondents filed with the Commission a motion to dismiss this claim on August 17, 2026, for which a dismissal hearing was held.

4. Appropriate Notice of the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.

5. The Claimant did not appear at the hearing to object to his claim being dismissed. No request for a hearing has been made by the Claimant. Hence, the evidence preponderates that the Claimant has failed to prosecute his claim for workers' compensation benefits.

6. The Respondents' motion to dismiss this claim for a lack of prosecution is hereby granted, pursuant to Ark. Code Ann. §11-9-702 (a)(4), §11-9-702 (d), and Commission Rule 099.13, (now codified at 11 C.A.R. § 25-110(d)), w*ithout prejudice,* to the refiling of the claim within the specified limitation period.

ORDER

In accordance with the foregoing findings of fact and conclusions of law, this claim is hereby respectfully dismissed *without prejudice,* pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)), to the refiling of it within the specified limitation period.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge