

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. H207171**

**RODRIQUEZ X. WILLIAMS,  
EMPLOYEE**

**CLAIMANT**

**YENA CORP.,  
EMPLOYER**

**RESPONDENT**

**CLEAR SPRINGS PROPERTY & CAS. CO., INC./  
CCMSI  
CARRIER/TPA**

**RESPONDENT**

**OPINION AND ORDER TO DISMISS WITHOUT PREJUDICE  
FILED JUNE 8, 2023**

Hearing conducted on Wednesday, June 7, 2023, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant is represented by the Honorable Laura Beth York, Rainwater, Holt & Sexton, Little Rock, Pulaski County, Arkansas, who waived appearance at the hearing.

The respondents were represented by the Honorable Melissa Wood, Worley, Wood & Parrish, P.A., Little Rock, Pulaski County, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted on Wednesday, June 7, 2023, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2023 Lexis Replacement) and Commission Rule 099.13 (2023 Lexis Replacement).

The respondents accepted this claim as compensable and have to date paid all appropriate medical and indemnity benefits. On both April 6, 2023, and May 5, 2023, the respondents filed motions to dismiss with the Commission alleging the claimant has to date failed and/or refused to prosecute this claim, and that he has not requested a hearing in the last six (6) months.

Thereafter, the claimant and his attorney were provided due and legal notice of both the respondents' motions to dismiss, as well as a copy of the hearing notice for the subject hearing. Since the respondents have to date paid all appropriate medical and indemnity benefits and there currently exist no outstanding issues that necessitate a hearing, the claimant's attorney did not object to the respondents' motions, and waived appearance at the subject hearing.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission's entire file in this claim.

### **DISCUSSION**

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2023 Lexis Replacement), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' motion to dismiss. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant has failed and/or refused to prosecute his claim at this time.

Therefore, after a thorough consideration of the facts, issues, the applicable law, representations of counsel, and other relevant matters of record, I hereby make the following:

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Commission has jurisdiction of this claim.
2. After having been mailed due and legal notice of both the respondents April 6, 2023, and May 5, 2023, motions to dismiss without prejudice, as well as notice of the date, time, and place of the subject hearing, the claimant's attorney did not object to the motions, and waived appearance at the subject hearing.
3. Therefore, I find the respondents' aforementioned motions to dismiss without prejudice filed April 6, 2023, and May 5, 2023, respectively, should be and hereby are GRANTED; and this claim hereby is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* Section 11-9-702(a) and (b), and Commission Rule 099.13.

This Order shall *not* be construed to prohibit the claimant, his attorney, any attorney he may retain in the future, or anyone acting legally and on his behalf from refiling the claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

If they have not already done so, the respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of their receipt thereof.

**IT IS SO ORDERED.**

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Mike Pickens  
Administrative Law Judge

MP/mp

MP/mp