

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE № H401547

NICHOLAS WITHERSPOON, EMPLOYEE	CLAIMANT
PULASKI COUNTY SPECIAL SCHOOL DISTRICT, EMPLOYER	RESPONDENT
ARK. SCHOOL BOARDS ASSOC. WCT, CARRIER/TPA	RESPONDENT

OPINION FILED 17 JANUARY 2025

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 8 January 2025 in Little Rock, Arkansas.

The *pro se* claimant did not appear.

Friday, Edredge & Clark, LLP, Mr. Guy 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 8 January 2025. This case relates to an alleged workplace injury sustained on or about 8 February 2024.

No testimony was taken, as the claimant did not appear. The respondents entered a number of documents supporting their motion into the record as Respondent's Exhibit № 1 (23 pages of forms, filings, and correspondence).

A First Report of Injury was filed by the respondents on 9 February 2024, and a Form AR-2 denying the claim was filed on 1 March 2024. In an email dated 5 March 2024, the claimant informed the AWCC that he disputed the denial of his claim for benefits. Mr. Guy Wade entered an appearance on behalf of the respondents by way of a letter dated 21 June 2024. Prehearing documents were sent to the parties on 26 June 2024. A letter dated

12 August 2024 recapitulates a request from the claimant to drop the pursuit of his claim. The matter was returned to the Clerk of the Commission's General Files, accordingly.

[Resp. Ex. No 1.]

The respondents filed a Motion to Dismiss for lack of prosecution on 4 October 2024, citing the applicable statute and rule. A hearing on the motion was set and notice was sent to the claimant via First Class mail and Certified Mail, consistent with the AWCC's practices. When mailings are not accepted or undeliverable, they are appended to the inside of the claim's file. I noted at the hearing that no returned mailings are contained in this file. A review of the file, however, does reveal a record of the claimant communicating with the Legal Advisor's Division on 19 December 2024, when the present motion was apparently discussed.

The respondents appeared on 8 January 2025, presented their motion, and offered supporting evidence into the record. As argued by the respondents at the hearing, the file reflects no request for a hearing on a claim in the relevant time preceding the filing of their motion. The claimant did not appear to resist the dismissal of his claim.

Ark. Code Ann. § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six months without a bona fide request for a hearing. Our Rule 99.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

ORDER

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

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE