

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H306644

GALE WOODSELL, EMPLOYEE

CLAIMANT

INDIAN ROCK VILLAGE, EMPLOYER

RESPONDENT

WESCO INSURANCE CO., TPA/CARRIER

RESPONDENT

OPINION FILED JULY 9, 2024

Hearing before Administrative Law Judge James D. Kennedy in Clinton, Arkansas on June 28, 2024.

Claimant is represented by her attorney, Laura Beth York, Little Rock, Arkansas.

Respondents are represented by their attorney, William C. Frye, North Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on June 28, 2024, in Clinton, Arkansas on respondent's Motion to Dismiss for failure to prosecute pursuant to A.C.A. 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. Although the claimant did not appear, the claimant through her representative notified the

Commission that she had no objection to the matter being dismissed, if dismissed without prejudice. Claimant had filed a Form AR – C on or about November 2, 2023 contending that she had injured her right knee and other whole body while in the course and scope of her employment. A First Report of Injury was filed on November 2, 2023, which provided that the claimant had fallen or slipped, which resulted in the claimant tearing her right knee meniscus. An AR – 2 was also filed on or about November 2, 2023, which stated the date of injury was January 31, 2023, and that the claim was medical only.

A Motion to Dismiss was filed by the respondents, requesting that the matter be dismissed for failure to prosecute pursuant to A.C.A. 11-9-702(a) (4) and Rule 099.13. The claimant has not requested a hearing to date and more than six months have passed since the filing of the original claim.

Appropriate notice was provided to the claimant notifying of a hearing on the Motion to Dismiss on June 28, 2024, in Clinton, Arkansas. The claimant did in fact respond by a letter from her attorney. At the time of the hearing, William C. Frye, 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, it is found that this matter should be dismissed without prejudice, for failure to prosecute pursuant to A.C.A. 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