

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H201464

RICHELLE WORTHAM, EMPLOYEE

CLAIMANT

ARCARE, EMPLOYER

RESPONDENT

TRAVELORS INDEMNITY CO. OF AMERICA

TPA/CARRIER

RESPONDENT

OPINION FILED JULY 30, 2024

Hearing before Administrative Law Judge James D. Kennedy in Batesville, Arkansas, on July 24, 2024.

Claimant is Pro Se and failed to appear.

Respondents are represented by their attorney, Amy C. Markham, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on July 24, 2024, in Batesville, Arkansas, in the Independence County Conference Room located in the basement of the Independence County Court House, 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. The claimant did not appear. Claimant had filed a Form AR – C on or about November 9, 2023, contending that she had injured herself with injuries that included her lower back and buttock and that these injuries occurred during the course and scope of her employment. A First Report of Injury had been previously filed on February 16, 2022, which provided there was no physical injury. An AR – 2 was filed on or about February 18, 2022, which stated there was no injury per statutory definition. Claimant's deposition was later taken, and the claimant was notified at the end of the deposition that a Motion to Dismiss was going to be filed.

A Motion to Dismiss was filed by the respondents on May 13, 2024, 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 July 24, 2024, in Batesville, Arkansas, and no response was filed by the claimant. At the time of the hearing, Amy C. Markham 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