

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H400680**

**SHEILA WHITLOCK,
EMPLOYEE**

CLAIMANT

**B & B OIL CO., INC.,
EMPLOYER**

RESPONDENT

**BRIDGEFIELD EMPLOYERS INS. CO.,
CARRIER**

RESPONDENT

**SUMMIT CONSULTING, LLC,
TPA**

RESPONDENT

OPINION FILED APRIL 16, 2025

Hearing conducted on Friday, March 17, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant is represented by C. Michael White, Attorney at Law, of North Little Rock, Arkansas.

The Respondents were represented by Mr. Zachary F. Ryburn, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on January 6, 2026. A hearing on the motion was conducted on March 10, 2026, in Little Rock, Arkansas. Claimant's and Respondent's counsel did appear at the hearing.

The Claimant worked for the Respondent/Employer as a deli manager. The date for Claimant's alleged injury was on January 19, 2024. This incident was reported to the Respondent/Employer on the same day. Admitted into evidence was Respondents' Exhibit 1,

pleading, consisting of 1 page, and Commission Ex. 1, pleadings and correspondence, consisting of 7 pages, *as discussed infra*.

The record reflects on January 30, 2024, a Form AR-1 was filed purporting that Claimant, while taking trash up an icy hill slipped and fell resulting in pain under her right arm. On January 30, 2024, a Form AR-2 was filed neither disputing or accepting that Claimant was injured during the course and scope of employment. On August 14, 2025, a Form AR-C was filed by Claimants attorney, C. Michal White, purporting that Claimant injured her upper extremity and ribs in the course and scope of her employment.

On December 15, 2025, a prehearing telephone conference was held and subsequent order filed on December 16, 2025, setting a full hearing for February 25, 2026, in Batesville, Arkansas. On February 17, 2026, Claimant's counsel advised the Commission, via email, that the Claimant was diagnosed with cancer three weeks prior and passed away. Judge Kennedy cancelled the hearing and returned the claim to general files.

Respondents filed a motion to dismiss on March 4, 2026, for, as I interpret, due to Claimant's sudden death she is no longer able to prosecute her claim. The Claimant's counsel was sent, on March 5, 2026, notice of the Motion to Dismiss, via email. Claimant's counsel, via email and in person at the hearing, agreed with the dismissal due to his client's unexpected death. Thus, in accordance with applicable Arkansas law, the Claimant's counsel was emailed notice of Respondents' Motion to Dismiss hearing date, a date he agreed to, on March 5, 2026. The hearing was scheduled for March 17, 2026.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, 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 Commission has jurisdiction over this claim.
2. The Claimant and Respondents both had reasonable notice of the March 17, 2026, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute her claim under 11 C.A.R. §25-110(d) (formerly AWCC Rule 099.13).
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

11 C.A.R. §25-110(d) provides:

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.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with 11 C.A.R. §25-110(d), the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. Claimant's counsel participated in setting a date for the Motion hearing and accepted service, via email, and was

present at the hearing. Thus, I find by the preponderance of the evidence that the Claimant did receive reasonable notice of this motion to dismiss hearing.

Furthermore, 11 C.A.R. §25-110(d) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant unexpectedly died due to cancer. Due to this unfortunate situation, she, along with her counsel, are no longer able to prosecute this claim. Therefore, I do find by the preponderance of the evidence that Claimant is unable to further prosecute her claim due to her untimely death. Thus, Respondents' Motion to Dismiss should be granted.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge