

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H405788**

BLAINE WILSON, EMPLOYEE

CLAIMANT

**GREENBRIAR CO., INC.,
EMPLOYER**

RESPONDENT

**SENTRY CASUALTY. CO.,
CARRIER**

RESPONDENT

OPINION FILED JANUARY 6, 2026

Hearing before Administrative Law Judge O. Milton Fine II on January 2, 2026, in Jonesboro, Craighead County, Arkansas.

Claimant, *pro se*, not appearing.

Respondents represented by Mr. Jarrod S. Parrish, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on the Motion to Dismiss by Respondents. A hearing on the motion was conducted on January 2, 2026, in Jonesboro, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing. Admitted into evidence was Respondents' Exhibit 1, pleadings, correspondence and forms related to this claim, consisting of one index page and nine numbered pages thereafter. In addition, in order to address adequately this matter under Ark. Code Ann. § 11-9-705(a)(1) (Repl. 2012)(Commission must "conduct the hearing . . . in a manner which best ascertains the rights of the parties"), and without objection, I have blue-backed to the record documents from the Commission's file on the claim, consisting of 13 pages. In

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accordance with *Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549, these documents have been served on the parties in conjunction with this opinion.

The record reflects the following procedural history:

Per the First Report of Injury or Illness filed on September 6, 2024, Claimant purportedly suffered an injury to his left shoulder and forearm when he fell while descending a ladder at work on June 11, 2024. According to the Form AR-2 that was also filed on September 6, 2024, Respondents accepted the claim as compensable and paid medical and indemnity benefits pursuant thereto.

On November 19, 2024, through then-counsel Mark Alan Peoples, Claimant filed a Form AR-C. Therein, he alleged that his client injured his head, neck, and left shoulder in a “work accident” that allegedly took place on June 11, 2024. All boxes on the form were checked to indicate that Claimant was seeking all manner of initial (but not additional) benefits. In an email accompanying this filing, Peoples stated that he was “not asking for a hearing at this time.” Respondents’ counsel made an entry of appearance on December 9, 2024.

In an email to the Commission sent on January 18, 2025, Peoples moved to withdraw from the case. In an Order entered on February 12, 2025, the Full Commission granted the motion under AWCC Advisory 2003-2.

The record reflects that nothing further took place on the claim until October 28, 2025. On that date, Respondents filed the instant motion and brief in support thereof, asking for dismissal of the claim under 11 C.A.R. § 25-110(d)) and Ark. Code Ann. § 11-

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9-702 (Repl. 2012) due to Claimant's alleged failure to make a bona fide hearing request within six months of the filing of the Form AR-C. The file was assigned to me on October 29, 2025; and on that same date, my office wrote Claimant, asking for a response to the motion within 20 days. The letter was sent by certified and first-class mail to the Paragould, Arkansas address of Claimant listed in the file and on his Form AR-C. A "Mary Blount" signed for the certified letter on November 3, 2025; and the first-class mailing was not returned. However, no response from him to the motion was forthcoming. On November 19, 2025, a hearing on the Motion to Dismiss was scheduled for January 2, 2026, at 1:00 p.m. at the Craighead County Courthouse in Jonesboro. The Notice of Hearing was sent to Claimant via first-class and certified mail to the same address in Paragould as before. In this instance, the certified letter was returned to the Commission, unclaimed, on December 28, 2025; but the one sent by first-class mail was not returned.

The hearing on the Motion to Dismiss proceeded as scheduled on January 2, 2026. Again, Claimant failed to appear at the hearing. But Respondents appeared through counsel and argued for dismissal under the aforementioned authorities.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following Findings of Fact and Conclusions of Law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this matter.
2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.
3. The evidence preponderates that Claimant has failed to prosecute his claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted; this claim is hereby dismissed without prejudice under 11 C.A.R. § 25-110(d).

III. DISCUSSION

11 C.A.R. § 25-110(d) reads:

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).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

As shown by the evidence recounted above, (1) the parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon; and (2) Claimant

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has failed to pursue his claim because he has taken no further action in pursuit of it (including appearing at the January 2, 2026, hearing to argue against its dismissal) since the filing of his Form AR-C on November 19, 2024. Thus, the evidence preponderates that dismissal is warranted under § 25-110(d). Because of this finding, it is unnecessary to address the application of Ark. Code Ann. § 11-9-702(d) (Repl. 2012).

That leaves the question of whether the dismissal of the claim should be with or without prejudice. The Commission possesses the authority to dismiss claims with prejudice. *Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App. 137, 744 S.W.2d 402 (1988). The Commission and the appellate courts have expressed a preference for dismissals *without prejudice*. See *Professional Adjustment Bureau v. Strong*, 75 Ark. 249, 629 S.W.2d 284 (1982)). Respondents at the hearing asked for a dismissal without prejudice. I agree and find that the dismissal of this claim should be and hereby is entered *without prejudice*.¹

IV. CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim is hereby dismissed *without prejudice*.

IT IS SO ORDERED.

O. MILTON FINE II
Chief Administrative Law Judge

¹“A dismissal ‘without prejudice’ allows a new [claim] to be brought on the same cause of action.” BLACK’S LAW DICTIONARY 825 (abridged 5th ed. 1983).