

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No H304863

CARL ANDERSON, EMPLOYEE	CLAIMANT
CENTRAL MALONEY, INC. EMPLOYER	RESPONDENT
CENTRAL MALONEY, INC./ RISK MANAGEMENT RESOURCES, CARRIER/TPA	RESPONDENT

OPINION FILED 26 APRIL 2024

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 24 April 2024, in Little Rock, Arkansas.

The *pro se* claimant did not appear.

Mr. Guy Wade, Friday, Eldridge & Clark, LLP, 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 23 April 2024. This case relates to an alleged workplace injury, sustained on or about 19 July 2023, to the claimant's left eye area. A First Report of Injury was filed on 24 July 2023 and a Form 2 was filed shortly afterwards, on 2 August 2023, denying the claim. A hearing was then requested by the claimant, via email to the Commission, on 11 August 2023. See Respondent's Exhibit No 1.

On 30 January 2024, the respondents requested a dismissal of this matter for failure to prosecute the claim. A letter from the Commission to the claimant communicating that motion was dated 5 February 2024 and another letter setting a hearing on the motion was dated 27 March 2024. Copies of those letters are included in Respondent's Exhibit No 1, and the Commission's file is absent any response from the claimant. I noted at the hearing that mailings from the Commission to claimants are sent via both First Class and Certified Mail

with return receipts requested. Returned mail is regularly appended to the Commission's file. This claim file includes only a return of the February 5th Certified Letter that indicates its return as "unclaimed."

The respondents appeared on 24 April 2024, 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. And the claimant did not appear to resist the dismissal of this 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