

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H300889

LAURA BENNETT,
EMPLOYEE

CLAIMANT

ARKANSAS ENTERPRISES FOR DEV. DISABILITIES,
EMPLOYER

RESPONDENT

RISK MANAGEMENT RESOURCES,
THIRD PARTY ADMINISTRATOR

RESPONDENT

OPINION FILED OCTOBER 2, 2023

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant, pro se, did not attend the hearing.

Respondents represented by the Honorable Carol Lockard Worley, Attorney at Law, Little Rock, Arkansas.

Statement of the Case

A hearing was held on September 20, 2023 in the present matter pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), for a determination of whether the above-referenced case should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012) and/or Arkansas Workers' Compensation Commission Rule 099.13.

Appropriate Notice of this hearing was provided to all parties to their last known address, in the manner prescribed by law.

The record consists of the transcript of the September 20, 2023, hearing and the documents held therein. Respondents' Exhibit 1 consists of eight numbered pages, excluding the cover page.

Additionally, the entire Commission’s file has been made a part of the record. It is hereby incorporated into the hearing transcript by reference.

Procedural History

On February 9, 2023, the Claimant filed with the Commission a claim for Arkansas workers’ compensation benefits by way of a Form AR-C. Per this document, the Claimant alleged an accidental injury on May 3, 2021, in the course and scope of her employment with the respondent-employer. The Claimant described the cause of her injury and the part of body injured: “I was hit on my driver’s side and my passenger’s side which caused my neck and back to be injured.” She asked for workers’ compensation benefits in the form of only initial medical expenses.

The claims adjuster filed Form AR-2 with the Commission on February 20, 2023, accepting the above referenced matter as a medical only claim.

Subsequently, there was no action taken by the Claimant to resolve her claim, and nor did she request a hearing.

Therefore, the Respondents filed a Motion to Dismiss with the Commission on August 10, 2023. The Respondents’ pleading included a certificate of service affirming that they had forwarded a copy of the motion directly to the Claimant via certified mail through the United States Postal Service.

The Commission sent a letter-notice on August 11, 2023, to the Claimant’s last known address via first-class and certified mail. Per this correspondence, the Commission gave the Claimant a deadline of twenty days for filing a written response to the Respondents’ Motion to Dismiss.

On August 30, 2023, the Claimant wrote a letter to the Commission saying, “I Laura Bennett give permission to dismiss my claim...”

The Commission set the claim for a hearing pursuant to a Notice of Hearing mailed to the parties on August 29, 2023. The notice was mailed to the Claimant via first-class and certified mail. Said hearing was scheduled for September 20, 2023, at the Commission in Little Rock.

The notice that the Commission sent to the Claimant via first-class and certified mail has not been returned to the Commission.

Subsequently, a hearing was in fact conducted on the Respondents’ motion for dismissal as scheduled. The Claimant did not attend the dismissal hearing. However, the Respondents appeared through their attorney.

The Respondents’ attorney noted that it has been more than six months since the filing of the Form AR-C, and the Claimant has not requested a hearing. Therefore, counsel moved that this claim be dismissed under Ark. Code Ann. §11-9-702 for a lack of prosecution of the case by the Claimant.

Discussion

The record before me proves that the Claimant has failed to promptly prosecute her claim for workers’ compensation benefits. The Claimant has not requested a hearing since the filing of the Form AR-C in February 2023. More importantly, the Claimant did not appear at the hearing to object to her claim being dismissed and has said in writing that she is in agreement with her claim being dismissed.

Under these circumstances, I am compelled to find that the evidence preponderates that the Claimant has failed to prosecute her claim for workers’ compensation benefits in the manner set forth under the law. Hence, the Claimant does not object to her claim being dismissed. Therefore,

per Ark. Code Ann. §11-9-702, I find that this claim should be and is hereby respectfully dismissed, *without prejudice*, to the refiling of it within the limitation period specified by law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the basis of the record as a whole, 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 Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The Respondents filed with the Commission a motion for dismissal of this claim due to a lack of prosecution by the Claimant, for which a hearing was held.
3. The Claimant has not requested a hearing since the filing of her Form AR-C, which was done in February 2023. Hence, the evidence preponderates that the Claimant has failed to prosecute her claim for workers' compensation benefits. The Claimant does not object to her claim being dismissed.
4. Appropriate Notice of the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.
5. The Respondents' Motion to Dismiss this claim due to a lack of prosecution is hereby granted, *without prejudice*, per Arkansas Code Ann. §11-9-702, to the refiling of it within the limitation period specified by law.

ORDER

Following the findings of fact and conclusions of law set forth above, this claim is hereby dismissed per Arkansas Code Ann. §11-9-702, *without prejudice*, to the refiling of it, within the limitation period specified by law.

IT IS SO ORDERED.

HON. CHANDRA L. BLACK
Administrative Law Judge