

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No H208268

MICHAEL C. BRINSA (DEC'D), EMPLOYEE	CLAIMANT
LABOR SOURCE, LLC, EMPLOYER	RESPONDENT
WESCO INS. CO./AMTRUST NORTH AMERICA, CARRIER/TPA	RESPONDENT

OPINION FILED 12 MARCH 2024

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 6 March 2024, in Little Rock Pulaski County, Arkansas.

The *pro se* claimant did not appear.

Mr. William C. Frye, Attorney-at-Law of North Little Rock, 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 6 March 2024. This case relates to an alleged workplace injury sustained on 11 November 2022, when the claimant was found deceased in his personal vehicle at a work-site. A Form AR-2 was also filed on 28 November 2022, denying the claim as not related to the course and scope of employment. A Form AR-C was filed on 1 December 2022. According to correspondence accompanying the filing of the AR-C, a hearing was not being requested at the time of that filing.

According to the respondents, the decedent's widow Tevonia Hall sat for a deposition in this matter sometime ago. On 11 October 2023, the claimant's counsel filed with the Commission, a Motion to Withdraw, and that Motion was granted in an Order dated 24 October 2023. The respondents filed their Motion to Dismiss for Failure to Prosecute on 13 November 2023, stating that the claimant had not sought a hearing on any matter at

controversy in the six (6) months preceding that filing. The claimant did not file an objection to the dismissal or appear at the hearing to argue against the respondents' Motion. The respondents appeared, 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 that Motion.

Arkansas Code Annotated §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. Commission Rule 099.13 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