

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H200588**

**CASSANDRA L. BROOKS,
EMPLOYEE**

CLAIMANT

**BAPTIST HEALTH SYSTEM,
EMPLOYER**

RESPONDENT

**BAPTIST HEALTH SYSTEM/CLAIMS ADMINISTRATIVE
SERVICES, INC.,
INS CARRIER/TPA**

RESPONDENT

**OPINION AND ORDER TO DISMISS WITHOUT PREJUDICE
FILED NOVEMBER 29, 2022**

Hearing conducted before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, on Tuesday, November 29, 2022, in Little Rock, Pulaski County, Arkansas.

The claimant, Ms. Cassandra L. Brooks, of Little Rock, Pulaski County, Arkansas, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Jarrod Parrish, Worley, Wood & Parrish, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

On September 30, 2022, the respondents filed a motion to dismiss (MTD) this claim without prejudice for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2022 Lexis Replacement), and/or Commission Rule 099.13 (2022 Lexis Replacement). Thereafter, the Commission scheduled a hearing on the respondents' MTD, and provided the claimant with both a copy of the MTD (as the respondents already had done when they initially filed the motion) as well as the hearing notice pursuant to the applicable Arkansas law. The Commission's file reflects the claimant received the hearing notice via the United States Postal Service (USPS), Certified Mail, Return Receipt Requested, on October 6, 2022, at 12:42 p.m.; but she apparently failed

and/or refused to sign the return receipt. Still, it is beyond reasonable dispute – indeed, it is a fact – the claimant received the hearing notice. Still, thereafter, she failed and/or refused to respond to the MTD in any way, and failed and/or refused to appear, or to cause anyone to appear on her behalf, at the subject hearing.

The record herein consists of the subject hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission’s entire file in this matter.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2021 Lexis Repl.), as well as our court of appeals’ ruling in *Dillard vs. Benton County Sheriff’s Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission conducted a hearing on the respondents’ motion to dismiss for lack of prosecution which they filed with the Commission on September 30, 2022.

Rather than recite a detailed analysis of the record, suffice it to say the hearing record and all the aforementioned facts conclusively demonstrate the claimant has failed and/or refused to prosecute her claim, or to request a hearing on the merits within the last six (6) months.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having received timely, due, and legal notice of both the respondents’ MTD filed September 30, 2022, as well as of the subject hearing, the claimant failed and/or refused to either respond to the MTD motion in any way, to appear at the subject hearing, or to cause anyone to appear on her behalf.
3. The preponderance of the credible, undisputed evidence of record demonstrates the respondents’ motion to dismiss without prejudice filed with the Commission on September 30, 2023, should be and hereby is GRANTED. Therefore, this claim is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by

Ark. Code Ann. § 11-9-702(a) and (b), and Commission Rule 099.13.

The respondents shall pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp

