

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H303553

SHAUN CAMPBELL, EMPLOYEE

CLAIMANT

FUTUREFUELCHEMICAL CO., EMPLOYER

RESPONDENT

EMPLOYERS IN. CO. OF WAUSA, TPA/CARRIER

RESPONDENT

OPINION FILED JUNE 28, 2024

Hearing before Administrative Law Judge James D. Kennedy in Batesville, Arkansas on June 26, 2024.

Claimant is Pro Se and failed to appear.

Respondents are represented by their attorney, Rick Behring, Jr., Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on June 26, 2024, in Batesville, Arkansas on respondent's Motion to Dismiss for failure to prosecute pursuant to A.C.A. 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was pro se and failed to appear for the hearing. The claimant had been previously

represented by Laura Beth York, who had been allowed to withdraw by an Order of the Full Commission, dated March 20, 2024. Claimant had filed a Form AR – C on or about June 1, 2023, contending the claimant was injured during the course and scope of employment, with injuries to the back, neck, head, right arm, right shoulder, left shoulder, and whole body. A First Report of Injury was filed on June 5, 2023, that provided the claimant while unhooking a railcar with a wrench, and while pulling back on the wrench, developed a pain between the shoulder blades. An AR – 2 was filed on or about June 5, 2023, and the claim was accepted as compensable.

A Motion to Dismiss was filed on or about April 1, 2024, requesting that the matter be dismissed for failure to prosecute pursuant to A.C.A. 11-9-702(a) (4) and Rule 099.13. The claimant has not requested a hearing to date and more than six months have passed since the filing of the original claim. Respondent stated through their attorney that they had submitted discovery that was not responded to. Additionally, the claimant had reached MMI prior to the above hearing date and was paid an impairment rating.

Appropriate notice was provided to the claimant notifying of a hearing on the Motion to Dismiss on June 26, 2024, in Batesville, Arkansas. The claimant did not file a response and failed to appear on the hearing date. At the time of the hearing, Rick Behring, Jr., appeared on behalf of the Respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the Respondent, it is found that this matter should be dismissed without prejudice, for

failure to prosecute pursuant to A.C.A. 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE