

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H007257**

<b>CHRISTOPHER L. CARDIN, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>MEMPHIS MECHANICAL SERVICES, INC., EMPLOYER</b>	<b>RESPONDENT</b>
<b>FIREMEN'S INS. CO. OF WASHINGTON DC/ UNION STANDARD INSURANCE CO., CARRIER/TPA</b>	<b>RESPONDENT</b>

**OPINION FILED NOVEMBER 15, 2022**

**Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas, on November 8, 2022.**

**Claimant is *Pro Se* and failed to appear in person.**

**Respondents are represented by Ms. Carol Lockard Worley, Attorney at Law of Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above styled matter on November 8, 2022, in Little Rock, Arkansas, on respondents' "Motion to Dismiss" for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was originally represented by Laura Beth York, Attorney at Law of Little Rock Arkansas, who was allowed to withdraw as counsel by an Order from the Full Commission, dated August 25, 2022. A Motion to Dismiss was filed by the respondents on August 31, 2022, which contended the claimant had failed to prosecute the case over the last six months as required by Rule 099.13 of the Arkansas Workers' Compensation and by Ark. Code Ann. § 11-9-702. The record provided that the claimant was injured on September 16, 2020, after falling down an elevator shaft and the respondents filed a First Report of Injury on October 1, 2020, providing that the

claim was compensable. The claimant filed a Form AR-C on October 9, 2020, providing that the claimant sustained injuries to his pelvis, left knee and leg, right shoulder, right foot/heel, and the body as a whole. The claimant was treated and underwent pelvic fixation surgery by Doctor Renard and rotator cuff repair by Doctor Pearce and received disability ratings in regard to the injuries. Doctor Roman opined that the claimant reached MMI on or about June 30, 2021, and claimant returned to work on August 16, 2021. At the time of the hearing, it appeared that the claimant had not responded to the Motion to Dismiss and had failed to take any action to pursue the claim within the last six months. The claimant failed to appear at the time of the hearing.

After proper notice, the hearing on the Motion to Dismiss was set for November 8, 2022, in Little Rock, Arkansas. Ms. Carol Lockard Worley appeared on behalf of the respondents, and claimant failed to appear. The claimant had not sought any action in regard to this claim for the last six months.

After a review of the record as a whole, to include all evidence properly before the Commission, and having had an opportunity to hear the respondent's statements, and after finding that there was proper notice, there is no alternative but to find that the Motion to Dismiss should be granted at this time. The claim should be dismissed without prejudice pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

**ORDER**

Pursuant to the above, there is no alternative but to find that the Motion to Dismiss should be granted and this matter should be dismissed without prejudice at this time.

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IT IS SO ORDERED:

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JAMES D. KENNEDY  
ADMINISTRATIVE LAW JUDGE