

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H204111

PEGGY CLEMONS, EMPLOYEE

CLAIMANT

**SOUTH COUNTY SCHOOL DISTRICT,
EMPLOYER**

RESPONDENT

ARKANSAS SCHOOL BOARDS ASSOCIATION

RESPONDENT

OPINION AND ORDER FILED SEPTEMBER 13, 2023

The Original Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas was held on June 27, 2023. Two previous Orders have been entered in regard to this matter.

Claimant is *pro se* and appeared on her own behalf at the time of the hearing.

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

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on June 27th, 2023, in Little Rock, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant filed an AR-C on or about June 6, 2022, contending she had been injured on February 9, 2022, while loading car riders into their cars at the end of a school day, slipping on ice, and injuring her "foot, ears, loudly ringing, with upper and lower back pain." The respondents filed an AR-2 dated June 7, 2022, which provided that the claim was medical only. The claimant's retained counsel, Evelyn Brooks, of Fayetteville, Arkansas, withdrew as the attorney-of-record on August 8, 2022, after obtaining an Order from the Full Commission.

On or about April 12, 2023, the respondents filed a Motion to Dismiss for Failure to Prosecute, contending that the claimant had not sought any type of *bona fide* hearing before the Arkansas Workers' Compensation Commission over the last six (6) months and

consequently the matter should be dismissed for failure to prosecute pursuant to Rule 099.13 of the Arkansas Workers' Compensation and also pursuant to Ark. Code Ann. §11-9-702. There was no record of the claimant filing a response to the Motion to Dismiss and the hearing was set for June 27, 2023.

A hearing was held on June 27, 2023, as spelled out in a previous Order and Opinion dated August 9, 2023. The claimant appeared *pro se* at the time of the hearing and the Motion to Dismiss was held in abeyance and the claimant was instructed to appropriately respond to the Prehearing Questionnaire and any outstanding discovery within twenty (20) days of this Order. Further, the claimant was instructed to take the steps as required by the Arkansas Workers' Compensation Act that she deemed appropriate to pursue her claim, which might include obtaining counsel. Failure to do so could result in a request to renew the Motion to Dismiss and would leave no alternative but to take the appropriate action as spelled out in the Arkansas Workers' Compensation Act.

In a previous review of the file, it appeared that the claimant had failed to file a response to the Prehearing Questionnaire, but filed a Preliminary Notice on or about July 11, 2023. The claimant has also submitted a number of documents which were assumed to be evidence of her claim. These documents were submitted with comments and highlights in violation of Commission Rules on admissibility and the claimant was placed on notice that the failure to submit these documents without comments and highlights will render these documents inadmissible at the time of a hearing. Additionally, the claimant had withdrawn her authorization for the respondents to obtain her medical records, as required by the rules of the Commission. It also appeared that the claimant

had been unable or unwilling to obtain representation in this matter in order to assist her in pursuing her claim.

After a second review of the record, an Interim Order was entered on August 30, 2023, and the claimant was ordered to submit a medical authorization not limited by time and additionally file an answered Prehearing Questionnaire within ten (10) days of the date of this Order and Opinion. The Order on August 30, 2023, provided that failure to take these actions as required by the Arkansas Workers Compensation Commission could result in this matter being dismissed without prejudice without any further action by the respondents., and the claimant was further instructed that if she intended to pursue her claim to a hearing, she is required to submit any documentary evidence that she intended to have admitted into evidence at the time of the hearing without comments or highlights. Failure to take the above action would result in the documents being inadmissible.

After the Interim Order, the claimant filed a Response to the Prehearing Questionnaire with the attached documents again containing comments and highlights and filed a medical authorization that was limited by time to only three (3) months.

ORDER

Pursuant to the above statement of the case, and the previous issues that have arose in this matter along with the previous Order and Interim Order, it is found that there is no alternative but to grant the Motion to Dismiss without prejudice.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE

