

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H303365**

**REBECCA ANN DORRIS,
EMPLOYEE**

CLAIMANT

**LAKE HAMILTON MIDDLE SCHOOL,
EMPLOYER**

RESPONDENT

**ARK. SCHOOL BOARDS ASS'N
WORKERS' COMPENSATION TRUST/
ARK. SCHOOL BOARDS ASS'N,
INSURANCE CARRIER/TPA**

RESPONDENT

**OPINION AND ORDER FILED OCTOBER 18, 2023,
GRANTING RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE**

Hearing conducted on Tuesday, October 17, 2023, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Ms. Rebecca Ann Dorris, pro se, of Hot Springs, Garland County, Arkansas, failed and/or refused to appear at the hearing.

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

STATEMENT OF THE CASE

A hearing was conducted on Tuesday, October 17, 2023, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2023 Lexis Replacement) and Commission Rule 099.13 (2023 Lexis Repl.).

The respondents filed a motion to dismiss with the Commission on September 18, 2023, requesting this claim be dismissed for lack of prosecution. In accordance with applicable Arkansas law, the claimant was mailed due and proper legal notice of the respondents' motion to dismiss, as well as a copy of the hearing notice at her addresses of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt requested.

The claimant responded to the respondents' motion to dismiss in an email to the ALJ dated September 26, 2023, cc'ing Ms. Trese Martin of the respondents' law firm. In this email the claimant clearly and directly she did not wish to pursue this claim and did not object to its dismissal; and she specifically waived her right to appear at the hearing. (Respondents' Exhibit 1; and Comms'n's file). True to the facts and sentiments she expressed in her email, the claimant failed and/or refused to appear at the subject hearing.

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

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), 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 scheduled and conducted a hearing on the respondents' motion to dismiss. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant has failed and/or refused to prosecute her claim. In fact, the claimant articulately, directly, and specifically stated in the aforementioned September 26, 2023, email that she did not wish to pursue this claim; she did not object to its dismissal; and she waived her right to a hearing.

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 due and legal notice of the respondents' motion to dismiss, as well as due and legal notice of the subject hearing, the claimant failed and/or refused to appear at the hearing.

3. In fact, in her email to the ALJ and opposing counsel's office dated September 26, 2023, she did not want to pursue the claim, did not object to its dismissal, and she waived her right to a hearing.
4. The claimant has in fact waived her right to a hearing on the respondents' subject motion to dismiss, and has failed to prosecute – in fact, she has specifically stated in writing she does not want to prosecute – her claim.
5. Therefore, the respondents' motion to dismiss without prejudice filed with the Commission on September 18, 2023, should be and hereby is GRANTED pursuant to both *Ark. Code Ann.* Section 11-9-702(a)(4) and Commission Rule 099.13.

Nothing in this opinion and order shall be construed to prevent the claimant, any attorney she may hire in the future, nor any person acting legally and on her behalf from refiling this claim, *if* the claim is refiled within the deadlines set forth in *Ark. Code Ann.* Section 11-9-402.

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