

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO.: H205039**

LANCE JACKSON, EMPLOYEE	CLAIMANT
MIDWEST LOGISTICS SYSTEM, LTD, EMPLOYER	RESPONDENT
MIDWEST EMPLOYERS' CASUALTY COMPANY, INSURANCE CARRIER	RESPONDENT
GALLAGHER BASSETT SERVICES, INC., THIRD PARTY ADMINISTRATOR	RESPONDENT

**OPINION FILED APRIL 28, 2023**

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant, pro se, failed to appear for the hearing.

Respondents represented by Mr. Jarrod Parrish, Attorney at Law, Little Rock, Arkansas.

**Statement of the Case**

A hearing was held on April 26, 2023 in the present matter pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (d) (Repl. 2012), and Arkansas Workers' Compensation Commission Rule 099.13.

Appropriate Notice of this hearing was attempted on all parties to their last known address, in the manner prescribed by law.

The record consists of the transcript of the April 26, 2023, hearing and the documents contained therein. The remainder of the Commission's file has also been made a part of the record.

It is hereby incorporated herein by reference. The Respondents' Hearing Exhibit Packet consisting of ten numbered pages was marked as Respondents' Exhibit 1.

### **Discussion**

On August 24, 2022, the Claimant's attorney filed with the Commission a claim for Arkansas workers' compensation benefits on behalf of the Claimant by way of a Form AR-C. Specifically, the Claimant's attorney alleged: "During and in the course of his employment he suffered injuries to his back, torso, and other whole body." These alleged injuries occurred on March 14, 2022. His attorney checked all the boxes for both initial and additional workers' compensation benefits.

The respondent-insurance-carrier filed a Form AR-2 with the Commission on July 14, 2022, wherein they accepted compensability as a "medical only" claim.

On or about November 8, 2022, the Claimant's attorney filed with the Commission a motion to be relieved as counsel of record. The Full Commission entered an order granting the motion for Claimant's attorney to withdraw as counsel for the Claimant in this matter on or about November 18, 2022.

Since this time and the filing of the Form AR-C, there has been no action on the part of the Claimant to prosecute this claim, or otherwise pursue benefits.

On February 22, 2023, the Respondents filed with the Commission a Motion to Dismiss for Failure to Prosecute, along with a Certificate of Service. Hence, that same day, the Respondents mailed a copy of said motion to the Claimant via the United States Postal Service.

The Commission sent a notice of the Respondents' motion to the Claimant last known address on February 28, 2023. Per this correspondence, the Claimant was given a deadline of March 20, 2023, for filing a written response to the Respondents' motion.

Yet, there was no response from the Claimant.

Therefore, pursuant to a Hearing Notice dated March 22, 2023, the Commission notified the parties that a hearing was scheduled to address the Respondents' motion to dismiss this claim due to a lack of prosecution. Said hearing was scheduled for April 26, 2023, at 11:00 a.m., at the Arkansas Workers' Compensation Commission, in Little Rock, Arkansas.

However, on April 17, 2023, the United States Postal Service returned the Claimant's notice to the Commission essentially marked, "undeliverable."

A hearing was in fact conducted on the Respondents' motion as scheduled. The Claimant failed to appear at the hearing. However, the Respondents appeared through their attorney.

Counsel essentially noted that the Claimant has failed to timely prosecute his claim for workers' compensation benefits. Counsel noted that there has been no attempt on the part of the Claimant to interact with the Respondents in resolving and/or otherwise prosecuting his claim. Moreover, nor did the Claimant appear at the hearing to object to the dismissal of his claim, and he has not done anything to pursue the claim since the filing of the Form AR-C in August 2022, which was over eight months ago. Therefore, counsel moved that this claim be dismissed under the provisions of Ark. Code Ann. §11-9-702, and Arkansas Workers' Compensation Commission Rule 099.13.

The record before me shows that a request for a hearing has not been filed by or on behalf of the Claimant since the filing of the Form AR-C, which was over more than six months ago. Of significance, the Claimant failed to appear at the dismissal hearing, nor has he objected to his claim being dismissed, or responded to the notices of this Commission. Hence, the preponderance of the evidence shows that the Claimant has abandoned his claim for workers' compensation benefits. Therefore, the dismissal of this claim is warranted, without prejudice, to the refiling of it within

the limitation period specified by law. I further find that said dismissal should be and is hereby made pursuant to the provisions of Ark. Code Ann. §11-9-702, and Arkansas Workers' Compensation Commission Rule 099.13.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

On the basis of the record as a whole, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On August 24, 2022, the Claimant's attorney filed a Form AR-C, with the Commission, alleging that the Claimant sustained injuries to his back, torso, and other whole body.
3. The respondent-insurance-carrier filed a Form AR-2, with the Commission on or about July 14, 2022, accepting this claim as a "medical only" claim.
4. The Full Commission entered an order granting the Claimant's attorney motion to withdraw from representing him in this matter on November 18, 2022.
5. Since the filing of the Form AR-C more than eight months ago, the Claimant has failed to prosecute his claim and he not taken any action to advance it to a hearing.
6. On February 22, 2023, the Respondents filed with the Commission, a Motion to Dismiss for Failure to Prosecute. A hearing was held on the motion, but the Claimant failed to appear at the hearing, and he has not objected to his claim being dismissed.
7. The evidence preponderates that the Claimant has failed to prosecute this claim under the provisions of Ark. Code Ann. §11-9-702, and Arkansas Workers' Compensation Commission Rule 099.13.
8. Appropriate Notice of the dismissal hearing was attempted on all parties to their last known address, in the manner prescribed by law.
9. The Respondents' motion to dismiss is hereby granted without prejudice pursuant to Ark. Code Ann. §11-9-702, and Commission Rule 099.13, to the refiling of it within the limitation period specified by law.

**ORDER**

In accordance with the findings of fact and conclusions of law set forth above, this claim is hereby dismissed pursuant to Ark. Code Ann. §11-9-702, and Arkansas Workers' Compensation Commission Rule 099.13, without prejudice to the refiling of it, within the limitation period specified by law.

**IT IS SO ORDERED.**

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**HON. CHANDRA L. BLACK**  
**Administrative Law Judge**