

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**AWCC FILE No H301107**

**TRACI L. JACKSON, EMPLOYEE**

**CLAIMANT**

**CARELINK, EMPLOYER**

**RESPONDENT**

**AGING SERVICES FUND/RISK MANAGEMENT RESOURCES,  
CARRIER/TPA**

**RESPONDENT**

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**OPINION FILED 25 JANUARY 2024**

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Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 24 January 2024, in Little Rock, Pulaski County, Arkansas.

The *pro se* claimant failed to appear.

Ms. Melissa Wood, Worley, Wood & Parrish, Attorneys-at-Law of Little Rock, Arkansas, appeared for the respondents.

**STATEMENT OF THE CASE**

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 24 January 2024. This case relates to a workplace injury sustained on or about 20 December 2022, with a First Report of Injury filed with the Commission the following day indicating that the claimant injured her leg at work. A Form AR-2, dated 1 March 2023, was then filed noting that the carrier accepted a right knee injury as a compensable, medical-only claim. A Change of Physician was sought and granted (in an Amended Order) by the Medical Cost Containment Division on 4 May 2023.

The respondents filed their Motion to Dismiss for Failure to Prosecute on 22 November 2023, stating that the claimant had not sought a hearing on any matter at controversy in the six (6) months preceding that filing.

Notice of the respondents' Motion, and then notice of a hearing date for that Motion was sent to the claimant on 28 November 2023 and 22 December 2023, respectively. I will

note that it is the Commission's practice for mail relating to Motion to Dismiss hearings sent to a *pro se* claimant be sent via USPS First-Class mail and USPS Certified Mail. Returned or undeliverable mail is added to the claimant's file. The First-Class mailings of the above-noted notices were not returned to the Commission, but a notice for Certified Mail being undeliverable was returned to the Commission dated 6 January 2024.

The claimant did not file an objection to the dismissal or appear at the hearing to argue against the respondents' Motion. As argued by the respondents at the hearing, the file reflects no request for a hearing on a claim in the relevant time preceding the filing of that Motion. Notice of that Motion, and notice of the hearing on that Motion was sent to the address provided by the claimant, and the claimant chose not to appear to resist the motion to dismiss this action. The respondents appeared, presented their motion, and offered supporting evidence into the record.

Arkansas Code Annotated §11-9-702(a)(4) states that a matter may be dismissed without prejudice after six (6) months without a *bona fide* request for a hearing. Commission Rule 99.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

**VI. ORDER**

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

**SO ORDERED.**

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JAYO. HOWE  
ADMINISTRATIVE LAW JUDGE