

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
AWCC CLAIM NO.: G905790**

DEBORAH JOHNSON, Employee	CLAIMANT
LITTLE ROCK SCHOOL DISTRICT, Self-Insured Employer	RESPONDENT
ARKANSAS SCHOOL BOARDS' ASSOCIATION WORKERS' COMPENSATION TRUST, TPA	RESPONDENT

**OPINION AND ORDER FILED MARCH 18, 2022**

Hearing conducted before Administrative Law Judge Terry Don Lucy, in Pulaski County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: Honorable Melissa M. Wood, Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on March 8, 2022, with respect to the Respondents' Motion to Dismiss originally filed with the Commission on October 1, 2021, and subsequently renewed by the Respondents on January 18, 2022. When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did she appear during the ensuing proceedings. (TR 3-4)

Following sounding of the hall, the Commission's file in this matter was deemed incorporated by reference into the record without objection for purposes of this Opinion and Order. (TR 4) Likewise, Respondents' Exhibit No. 1 was also introduced into the record without objection. (TR 4-5)

The Commission's file reflects that notice of the Respondents' Motion was sent to the Claimant via certified and first-class mail from the Commission dated January 27, 2022, to her last known address, and which allowed her until February 16, 2022, to respond to such. Also, the Commission's file reflects that notice of the hearing was likewise sent to the Claimant via

certified and first-class (as well as electronic) mail from the Commission dated February 11, 2022, to the same last known address.

According to the Commission's file, the United States' Postal Service was unable to confirm delivery of the hearing notice. However, the Commission did receive correspondence from the Claimant dated February 7, 2022, in which the latter advised that

Claimant is being treated for her lower back injury which took place at work 1/19/21 after Dr. Wyrick sent claimant back to work, immediately 9/29/20, full duty without regard to claimant telling Dr. Wyrick that claimant wasn't able to return to work with her original injuries, doing the same work. Signed statement enclosed. (See Commission file.)

Although the Claimant has referenced an incorrect date of injury, I interpret such correspondence as an attempt to respond to the pending Motion. However, I find that such falls quite short of an objection to such and that it also does not amount to a hearing request. In addition, the Commission's file reflects that the Claimant was well aware of the Respondents' original Motion to Dismiss filed on October 1, 2021. In particular, the Claimant contacted the Commission's Legal Advisor Division in relation to such on October 12, 2021. Subsequently, by way of correspondence received by the Commission on October 25, 2021, the Claimant bluntly informed the Commission, *inter alia*, that "The failure to diligently pursue Deborah D. Johnson's claim does not rest upon Deborah D. Johnson, but said claim rests on the respondent/carrier -- Little Rock School District (Gibbs Magnet School)." (See Commission file.) The Claimant has filed Form AR-Cs in this matter on November 18, 2019, and October 18, 2021. (RX 1 at 3 and Commission File.)

According to Counsel for the Respondents, the Claimant has failed to return medical releases that were sent to her (by the Respondents) on both October 26, 2021, and December 7, 2021. (TR 11-12) This matter has also been the subject of a failed mediation held on January 18,

2022. (TR 10)

Based on the foregoing, and given the Claimant's lack of a suitable objection to the Respondents' Motion, her corresponding failure to appear at the hearing held on March 8, 2022, her apparent belief that it is not even her responsibility to prosecute or pursue her claim, and her failure to co-operate with the Respondents in regard to medical discovery, I specifically find that the Claimant has failed to prosecute her claim in a timely manner and that dismissal thereof without prejudice is warranted pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13, for lack of timely prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective March 8, 2022, and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

---

TERRY DON LUCY  
Administrative Law Judge