

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H109566

JANICE KANZLER, Employee

CLAIMANT

RUSSELLVILLE MIDDLE SCHOOL, Employer

RESPONDENT

AR SCHOOL BOARDS ASSOC WCT, Carrier/TPA

RESPONDENT

OPINION FILED JULY 18, 2023

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant not represented by counsel and not appearing at the hearing.

Respondent represented by, MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

This case comes on for review following a hearing on respondents' Motion to Dismiss.

It should be noted that this matter has previously been before the Commission on a Motion to Dismiss filed by the respondents on July 22, 2022, which resulted in an Opinion filed October 18, 2022, denying the respondents' request to dismiss.

On December 7, 2022, the claimant requested a hearing, and after a prehearing conference on February 27, 2023, a hearing was scheduled for April 13, 2023. On March 16, 2023, the claimant contacted my office stating she no longer wished to pursue a hearing, but instead, wanted to request a change of physician. The file was reassigned to the Medical Cost Containment Division on March 24, 2023. On March 28, 2023, claimant was informed that the physician she wished to see would not be authorized as that physician could not treat her compensable body part. The claimant then contacted the respondents' attorney stating she no longer wished to pursue her claim.

Thereafter, on March 30, 2023, the respondents filed a second Motion to Dismiss requesting this claim be dismissed for lack of prosecution. A hearing was scheduled for June 22, 2023, and notice of said hearing was sent to the claimant at her last known address by certified mail on May 16, 2023. That certified mail notice was returned to the Commission by the Post Office with a notation “Return to Sender. Unclaimed. Unable to Forward.”

After my review of respondents’ Motion to Dismiss, the claimant’s lack of response thereto, and all other matters properly before the Commission, I find that respondents’ Motion to Dismiss this claim should be and hereby is granted pursuant to Commission Rule 099.13. This dismissal is without prejudice.

ORDER

Pursuant to the above statement of the case and Commission Rule 099.13, I have no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

If respondents have not already done so, they are directed to pay the court reporter, Veronica Lane, her fees and expenses within thirty (30) days of receipt of her invoice.

IT IS SO ORDERED.

HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE