

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H201744**

**WILLIE LEWIS,
EMPLOYEE**

CLAIMANT

**CENTRAL MALONEY, INC.,
EMPLOYER**

RESPONDENT

**RISK MANAGEMENT RESOURCES,
INSURANCE CARRIER/TPA**

RESPONDENT

OPINION FILED MAY 17, 2023

Hearing conducted on Wednesday, May 11, 2023, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Pine Bluff, Jefferson County, Arkansas.

The claimant, Mr. Willie Lewis, *pro se*, of Pine Bluff, Jefferson County, Arkansas, appeared in person at the hearing.

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

STATEMENT OF THE CASE

A hearing was conducted on Thursday, May 11, 2023, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2022) (Lexis Replacement) and Commission Rule 099.13 (2022 Lexis Repl.). The respondents filed a motion to dismiss with the Commission on March 17, 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 both the respondents' motion to dismiss as well as a copy of the hearing notice at his current addresses of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, which he received on April 17, 2023.

The claimant stated during the hearing that he had personal situations that prohibited him from prosecuting his claim. The claimant stated that within the last 10 days of the hearing date that he had to bury his mother. He was not the primary caregiver for his mother. The claimant could not articulate any other reasons for his delay in prosecuting this matter. The claimant wants to continue with this case and has stated that several times throughout the hearing. The claimant desires to hire an attorney. The Commission recognizes that Claimant did retain Laura Beth York, attorney-at-law, who subsequently withdrew as his counsel of record on October 21, 2022.

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

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. I do find by the preponderance of the evidence, introduced at the hearing and contained in the record, that Claimant has neither requested a hearing nor has he taken any action to pursue his claim as of the hearing date. However, I do find that Claimant has shown by bringing his treating physician to the Motion to Dismiss hearing a sincere desire to prosecute this claim.

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 over this claim.
2. The ALJ hereby denies Respondents' Motion to Dismiss.
3. The parties have 45 days from the hearing date, or until Tuesday, June 27, 2023, to obtain any and all additional information they require and to attempt to

resolve any and all outstanding issues, if any remain. This timeline will not change absent good cause.

4. If, within seven (7) days after the expiration of this 45-day time-period the claimant does not request, in writing (with a copy to the respondents' attorney, of course), a hearing before the Commission, the Commission will entertain the filing of a second Motion to Dismiss by Respondents.

If Respondents have not already done so, they shall pay the court reporter's invoice within twenty (20) days of the filing of this opinion and order. The questionnaires shall be sent out and returned to the Commission consistent with law and this opinion.

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge