

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H105929

KEN NEEDHAM, EMPLOYEE

CLAIMANT

**VULCAN CONSTRUCTION MATERIALS,
EMPLOYER**

RESPONDENT

**OLD REPUBLIC INSURANCE COMPANY/
BROADSPIRE SERVICES, INC. CARRIER/TPA**

RESPONDENT

OPINION FILED MAY 31, 2022

Hearing before Administrative Law Judge James D. Kennedy in Batesville, Independence County, Arkansas, on May 25, 2022.

Claimant is *Pro Se* and failed to appear.

Respondents are represented by Mr. Zachary F. Ryburn, Attorney-at-Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on May 25, 2022, in Batesville, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 (d), and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant contended he suffered an injury due to silicosis on or about March 18, 2021, and filed a Form C on July 3, 2021. Discovery was instituted by the respondents.

The respondents filed a Motion to Dismiss on February 28, 2022, contending that the claim had been denied and the claimant had taken no action to prosecute the claim within the time frame required by the Arkansas Workers' Compensation Act.

A hearing was set for May 25, 2022, in regard to the request that the matter be dismissed. The claimant failed to appear at the hearing, after the appropriate notice was provided. At the time of the hearing, Zach Ryburn appeared on behalf of the respondents.

After a review of the record as a whole, to include all evidence properly before the Commission, and having had an opportunity to hear the statements of the respondent's attorney, there is no alternative but to find that the Motion to Dismiss should be granted at this time, due to failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above, there is no alternative but to find that the Motion to Dismiss should be granted and this matter should be dismissed without prejudice at this time.

IT IS SO ORDERED:

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE