

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**AWCC FILE No H009892**

**JOANIE L. OWENS, EMPLOYEE**

**CLAIMANT**

**KROGER LTD. PARTNERSHIP I, EMPLOYER**

**RESPONDENT**

**KROGER LTD. PARTNERSHIP I/SEDGEWICK,  
CARRIER/TPA**

**RESPONDENT**

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**OPINION FILED 12 MARCH 2024**

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Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 6 March 2024, in Little Rock, Pulaski County, Arkansas.

The *pro se* claimant did not appear.

Ms. Karen H. McKinney, Attorney-at-Law of Little Rock, 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 6 March 2024. This case relates to a workplace injury sustained on or about 20 November 2020, with a Form AR-C filed on 3 December 2020 and a First Report of Injury filed the following day. A Form AR-2 accepting the claim was also filed on 4 December 2020.

According to the respondents, benefits were paid accordingly through the life of this claim. The claimant's attorney filed a Motion to Withdraw on 21 February 2023, and the Full Commission granted that Motion in an Order dated 3 March 2023.

The respondents filed their Motion to Dismiss for Failure to Prosecute on 4 January 2024, stating that the claimant had not sought a hearing on any matter at controversy in the six (6) months preceding that filing. The claimant did not file an objection to the dismissal or appear at the hearing to argue against the respondents' Motion. The respondents

appeared, presented their Motion, and offered supporting evidence into the record. 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.

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 099.13 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.

**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