

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G903100

ROMAN PAQUETTE, EMPLOYEE

CLAIMANT

P.R. MARKETING LLC EMPLOYER

RESPONDENT

**LIBERTY MUTUAL GROUP/
INSURANCE, CARRIER**

RESPONDENT

OPINION FILED MAY 2, 2022

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas, on April 26, 2022.

Claimant is represented by Mr. Andy L. Caldwell, Attorney-at-Law, of Little Rock Arkansas.

Respondents are represented by Mr. Jason M. Ryburn, Attorney-at-Law, of Little Rock, Arkansas.

STATEMENT OF THE CASE

The claimant's attorney, Mr. Andy L. Caldwell, and the respondent's attorney, Mr. Jason M. Ryburn, both appeared at the above-styled matter on April 26, 2022, in Little Rock, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. An AR-C was filed on May 16, 2019, and the claimant was awarded medical benefits in the form of physical therapy after a hearing in an Opinion filed October 19, 2020. Respondents complied with the order, authorized the physical therapy, and informed the claimant through counsel that the therapy had been authorized. The claimant failed to attend the requested and ordered physical therapy. Claimant's counsel requested a hearing on July 30, 2021, and a prehearing conference was held on September 13, 2021. The claim was later returned to general files on September 21, 2021, after the respondents approved additional medical treatment. An appointment was set up for the claimant on October 27, 2021, and the claimant again failed to attend his appointment. The failure to follow-up on the medical by the claimant led to the

Motion to Dismiss filed by the respondents on February 28, 2022. More than six (6) months have passed since the claimant contended he sustained a work-related injury, and although the claimant, at one point, requested a hearing in regard to this matter, the claimant failed to appear for the ordered physical therapy and agreed upon medical.

The claimant's counsel appeared and objected to the Motion to Dismiss, contending that benefits had been ordered for the claimant and the claimant was in fact entitled to them.

A hearing was set for April 26, 2022, in regard to the Motion to Dismiss. The claimant failed to appear but Andy Caldwell appeared on his behalf. At the time of the hearing, Jason Ryburn appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

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 both the respondent's and the claimant's attorney, there is no alternative but to find that the Motion to Dismiss should be granted at this time, and the matter should be dismissed without prejudice.

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