

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H207764**

<b>WILLARD J. PENNINGTON, II, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>ENGLAND DIRT WORKS &amp; MORE, LLC, EMPLOYER</b>	<b>RESPONDENT</b>
<b>NATIONAL SPECIALTY INSURANCE, CARRIER / STATE NATIONAL INSURANCE CO., TPA</b>	<b>RESPONDENT</b>

**OPINION FILED DECEMBER 12, 2023**

**Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas on December 5, 2023.**

**Claimant is *pro se* and failed to appear.**

**Respondents are represented by their attorney, Mr. J. Matthew Mauldin, Attorney-at-Law of Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on December 5, 2023, in Little Rock, Arkansas on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was *pro se* and failed to appear for the hearing. The claimant had filed a letter on May 6, 2022, requesting a hearing. A Form AR-C was filed on November 1, 2022, providing that the claimant had sustained injuries to his right leg, right knee, right shin, and whole body, as well as nerve impingement on June 12, 2022. The First Report of Injury filed on February 10, 2023, provided that the claimant had injured himself when he stepped on a manhole cover that flipped up and he hurt his leg. The claimant initially retained Laura Beth York as his attorney but she was allowed to withdraw by an Order of the Full Commission dated August 25, 2023. The claimant has taken no further action to prosecute his claim and the respondents filed a Motion to Dismiss on October 2, 2023,

requesting that the matter be dismissed for lack of prosecution pursuant to Commission Rule 099.13 and Ark. Code Ann. §11-9-702.

Appropriate notice was provided to the claimant notifying him that a hearing on the Motion to Dismiss was set for December 5, 2023, in Little Rock, Arkansas. The claimant did not file a response and failed to appear on the hearing date. At the time of the hearing, Mr. J. Matthew Mauldin 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 an opportunity to hear the statements of the attorney for the respondents, I find that this matter should be dismissed without prejudice, for 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 statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

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JAMES D. KENNEDY  
ADMINISTRATIVE LAW JUDGE