

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NOS. H305941**

**KRISTA M. PERRY,
EMPLOYEE**

CLAIMANT

**DREW MEMORIAL HOSPITAL, INC.,
EMPLOYER**

RESPONDENT

**ARKANSAS HOSPITAL ASS'N WORKERS'
COMPENSATION SELF-INSURED TRUST/
RISK MG'T RESOURCES, INC.
INSURANCE CARRIER/TPA**

RESPONDENT

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED JUNE 14, 2024**

Hearing conducted on Thursday, June 13, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Monticello, Drew County, Arkansas.

The claimant, Ms. Krista M. Perry, pro se, of Lake Village, Chicot County, Arkansas, failed and/or refused to appear at the hearing.

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

STATEMENT OF THE CASE

A hearing was conducted on Thursday, June 13, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Replacement).

The respondents filed a motion to dismiss without prejudice (MTD) with the Commission on March 29, 2024, requesting this claim be dismissed without prejudice for lack of prosecution. Consistent with the applicable Arkansas law, by letter dated April 3, 2024, the Commission mailed a copy of both the respondents' MTD, and the subject hearing notice via the United States Postal Service (USPS), Certified Mail, Return Receipt Requested, to the claimant's last known address

of record with the Commission. (Respondents' Exhibit 1). Thereafter, the claimant failed and/or refused to respond in any way to either the Commission or to the respondents; and she failed and/or refused to appear at the subject hearing. The claimant never objected in any way to the respondents' MTD.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2022 Lexis Repl.), 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' MTD. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively demonstrates the claimant has both failed and/or refused to prosecute her claim, and she has failed and/or refused to request a hearing within the last six (6) months on her 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 of this claim.
2. After the Commission mailed due and legal notice of the respondents' MTD filed March 29, 2024, to the claimant's last known address of record with the Commission, the claimant failed and/or refused to respond to the motion in any way; failed and/or refused to object to the subject MTD; and failed and/or refused to request a hearing on the merits of her claim.
3. The claimant failed and/or refused to appear at the subject hearing and, therefore, has waived her right to a hearing on the respondents' MTD.

4. The claimant has failed to request a hearing either on the merits, or on any issue related to her claim within the last six (6) months.
5. The respondents' MTD without prejudice filed with the Commission on March 29, 2024, should be and hereby is GRANTED.
6. Therefore, this claim hereby is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b), and Commission Rule 099.13.

This opinion shall not be construed to prohibit the claimant, her attorney, any attorney she may retain in the future, or anyone acting legally and on her behalf from refiling this claim *if* the claim is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

The respondents shall pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp