

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO.: G800118**

GREGORY ROSS, Employee	CLAIMANT
FMH CONVEYORS, Employer	RESPONDENT NO. 1
TRAVELERS PROPERTY CASUALTY OF AMERICA, Carrier	RESPONDENT NO. 1
TRAVELERS INSURANCE COMPANY, TPA	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION AND ORDER FILED JUNE 28, 2022

Hearing conducted before ADMINISTRATIVE LAW JUDGE TERRY DON LUCY, in Craighead County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for Respondents No. 1: HONORABLE AMY C. MARKHAM, Attorney at Law, Little Rock, Arkansas.

Counsel for Respondent No. 2: HONORABLE DAVID L. PAKE, Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on June 24, 2022, before the undersigned Administrative Law Judge with respect to Respondents No. 1's Motion to Dismiss filed on April 11, 2022. When the hall was sounded at the appointed time for the hearing, the Claimant was not present for such, nor did he appear during the ensuing proceedings. Respondents No. 1 appeared through their counsel, the Honorable Amy C. Markham. During the ensuing proceedings, the Commission's file in this matter was deemed incorporated by reference into the record without objection for purposes of this Opinion and Order.

The Commission's file reflects that the most recent Form AR-C in this matter was filed on July 15, 2021, and that Counsel for the Claimant was subsequently allowed to withdraw from this matter by way of a Full Commission Order entered on October 13, 2021. In addition, the

Claimant's first Form AR-C filing occurred on January 9, 2018. The Commission's file reflects no formal request for a hearing on the merits of this matter since the latter date.

Notice of Respondents No. 1's Motion to Dismiss was sent to the parties via certified and first-class mail from the Commission dated April 12, 2022, which required a responsive pleading to such on or before May 2, 2022. The Commission's file reflects no objection to such from the *pro se* Claimant. By way of electronic correspondence to the Commission dated May 4, 2022, Counsel for Respondent No. 2 advised that his client did not object to Respondents No. 1's Motion and would waive its appearance at a scheduled hearing.

A Notice of Hearing, which reflected Respondent No. 2's waiver of appearance, was sent to the parties by way of certified and first-class mail from the Commission dated May 4, 2022. According to the Commission's file, which includes records provided by the United States' Postal Service, such notice was received at the Claimant's address on May 9, 2022.

Given the Claimant's lack of response or objection to Respondents No. 1's Motion to Dismiss filed on April 11, 2022, failure to appear at the hearing held on June 24, 2022, despite obvious receipt of notice of such, and failure to request a hearing on the merits of his claim since January 9, 2018, I specifically find that the Claimant has failed to prosecute his claim in a timely manner and that dismissal thereof without prejudice is warranted pursuant to both Commission Rule 099.13 and Ark. Code Ann. §11-9-702, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective June 24, 2022, and Respondents No. 1 are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

Ross – G800118

IT IS SO ORDERED.

TERRY DON LUCY
Administrative Law Judge