

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H301025

DANIEL SEE, EMPLOYEE

CLAIMANT

SAINT JEAN INDUSTRIES INC., EMPLOYER

RESPONDENT

AMERISURE MUTUAL, CARRIER/TPA

RESPONDENT

OPINION FILED OCTOBER 24, 2023

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

Claimant is *pro se* and failed to appear.

Respondents are represented by their attorney, Ms. Karen H. McKinney, Attorney-at-Law of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on October 24, 2023, in Little Rock, Arkansas, on respondents' 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. The claimant was *pro se* and failed to appear for the hearing. The claimant had alleged he had sustained an injury of right-hand numbness that was related to his work on September 23, 2022. Respondents filed a First Report of Injury and later filed an AR- 2 on or about February 15, 2023, denying the claim. The claimant contacted the Legal Advisor Division of the Arkansas Workers' Compensation Commission on February 17, 2023, and requested a hearing for additional benefits. Respondents then propounded written discovery to the claimant on March 9, 2023, and the claimant has failed to file a response to the discovery as of the date of the hearing. A Prehearing Questionnaire was sent to the parties on March 31, 2023, and the respondents filed a response, but the

claimant failed to file a response to the questionnaire. The claimant has failed to take any action since requesting a hearing back on February 17, 2023. A Motion to Dismiss was filed by the respondents in this matter on August 22, 2023.

Appropriate notice was provided to the claimant notifying him that a hearing on the Motion to Dismiss was set for October 24, 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, Karen H. McKinney 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 respondent, 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.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE