

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H207710**

**GEORGE SHAMBERGER, EMPLOYEE**

**CLAIMANT**

**FED EX FREIGHT, EMPLOYER**

**RESPONDENT**

**INDEMNITY INSURANCE CO. OF NORTH AMERICA**

**COMPENSATION CARRIER/TPA**

**RESPONDENT**

**OPINION FILED JUNE 18, 2024**

**Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas on June 18, 2024.**

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

**Respondents are represented by their attorney, Jason Ryburn, Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above styled matter on June 18, 2024, in Little Rock, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. 11-9-702 and Rule 13 of the Workers' Compensation Act. The claimant was originally represented by counsel and filed a Form AR-C on October 12,

2023, claiming that he had injured his fingers and hand. A Form AR- 2 had been previously filed on November 9, 2022, which provided that the date of injury was October 26, 2022, and that the first day of disability was November 3, 2022. The claimant was originally represented by Mark Peoples, attorney at law, who was allowed to withdraw by an Order from the Full Commission, dated April 10, 2024.

A Motion to Dismiss the Claim was filed on April 18, 2024, contending that the claimant had failed to prosecute the claim per the law and rules of the Commission. The claimant has not requested a hearing to date and more than six months have passed since the filing of the original claim.

Appropriate notice was provided to the claimant at his last known address notifying him that a hearing on the Motion to Dismiss was set for June 24, 2024, 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, 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 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 A.C.A. 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.

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JAMES D. KENNEDY  
ADMINISTRATIVE LAW JUDGE