

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H303774**

**CODY J. SHEFF,
EMPLOYEE**

CLAIMANT

**ROUGH HANDS CONSTR. CO., INC.,
EMPLOYER**

RESPONDENT

**TECHNOLOGY INS. CO./
AMTRUST NORTH AMERICA
INSURANCE CARRIER/TPA**

RESPONDENT

**OPINION FILED JULY 10, 2024,
HOLDING RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE IN
ABEYANCE FOR 30 DAYS**

Hearing conducted on Friday, July 5, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Hot Springs, Garland County, Arkansas.

The claimant, Mr. Cody J. Sheff, pro se, of Hot Springs, Garland County, Arkansas, appeared in person at the hearing.

The respondents were represented by the Honorable William C. (Bill) Frye, Frye Law Firm, P.A., North Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Friday, July 5, 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 Repl.). The respondents filed a letter motion to dismiss with the Commission on May 8, 2024, requesting this claim be dismissed without prejudice for lack of prosecution.

In accordance with applicable Arkansas law, the claimant was mailed due and proper legal notice of both the respondents' motion to dismiss as well as a copy of the hearing notice at his current addresses of record via the United States Postal Service (USPS), First Class Certified Mail,

which he received on June 1, 2024. (Commission Exhibit 1). Although the claimant failed and/or refused to respond to the respondents' motion, or to contact the respondents or the Commission, he appeared in person, pro se, at the subject hearing. 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), 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' letter motion to dismiss filed with the Commission on May 8, 2024. The respondents have controverted this claim in its entirety.

The claimant appeared in person at the hearing. He testified he had at one time been represented by an attorney, Mark Peoples of the Peoples Law Firm in Little Rock. The claimant testified in essence that Attorney Peoples, "wanted him to do all the work" to prove his claim, and that Attorney Peoples advised the claimant he had not given him enough proof that he sustained a work-related injury. Therefore, Attorney Peoples filed a motion with the Commission requesting to withdraw as the claimant's attorney, and the Commission granted this motion via a unanimous order filed May 6, 2024. Very soon thereafter, on May 8, 2024, the respondents' filed their letter motion to dismiss with the Commission.

The claimant testified that either he and/or his uncle had retained an attorney to represent him in this matter, although he was unable to advise whether the attorney had notice of the hearing, or to say why the attorney had not appeared at the hearing with him. There exists no documentary evidence in the record corroborating the claimant's statement and/or belief that either his uncle and/or he had retained counsel to represent him in this matter. The ALJ provided the claimant with

the contact information for the Commission's Legal Advisors Division so that he could call them and seek any guidance and/or obtain any additional information he required concerning his legal rights and responsibilities in this matter.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, and as I advised the parties on the record at the hearing, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. The ALJ will hold in abeyance a final decision on the respondents' subject motion to dismiss without prejudice for a period of 30 days, or until COB on August 6, 2024.
3. The claimant has 30 days from the hearing date, or until COB on Tuesday, August 6, 2024, for an attorney to enter an appearance on his behalf in this claim and to request a hearing; or, alternatively, for the claimant to request a hearing on the merits, and advise he intends to proceed with this claim pro se, i.e., representing himself.
4. If the claimant fails and/or refuses to comply with the immediately aforementioned conditions set forth in Paragraph 3 on or before COB on Tuesday, August 6, 2024, the ALJ shall grant the respondents' letter motion to dismiss without prejudice filed with the Commission on May 8, 2024, without prejudice without the necessity of either the respondents filing another motion to dismiss, and without the necessity of the Commission holding another hearing the respondents' motion to dismiss without prejudice.

If they have not already done so, the respondents shall pay the court reporter's invoice within

twenty (20) days of the filing of this opinion and order.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp

