

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. H009352**

**DONALD K. VIA, EMPLOYER**

**CLAIMANT**

**CITY OF MAUMELLE, EMPLOYER**

**RESPONDENT**

**ARKANSAS MUNICIPAL LEAGUE/  
WORKERS' COMPENSATION TRUST,  
INSURANCE CARRIER/TPA**

**RESPONDENT**

**OPINION FILED MARCH 2, 2022**

**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, Jarrod Parrish, Attorney at Law, Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on February 22, 2022, 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 claim involved an injury which occurred on or about January 15, 2019, and an employer–employee relationship existed on that date with the respondents. The employer accepted the claimant's lower back injury sustained on the above date as compensable. The claimant litigated the compensability of a hearing loss claim, and a full hearing was held on September 21, 2021. An Opinion was issued on October 27, 2021, which found the hearing loss claim non-compensable, and the Opinion is now the law of the case. No appeal was filed, and no action has been taken in over six (6) months in regard to this claim. A Motion to Dismiss was filed on or about December 21, 2021.

An appropriate notice setting this matter for a hearing for a Motion to Dismiss was provided to the claimant by both Certified and First-Class mail. A hearing was set for February 22, 2022, in regard to the Motion to Dismiss. The claimant did not file a response and did not appear on the hearing date in Little Rock, Arkansas. At the time of the hearing, Jarrod Parrish 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 respondents, there is no alternative but to find that this matter should be dismissed 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.**

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**JAMES D. KENNEDY  
ADMINISTRATIVE LAW JUDGE**