

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H103334**

**JONATHAN WOODALL,
EMPLOYEE**

CLAIMANT

**HILL & COX CORP.,
EMPLOYER**

RESPONDENT

**VALLEY FORGE INS. CO./
CNA INS. CO.,
CARRIER/TPA**

RESPONDENT

**OPINION AND ORDER TO DISMISS WITHOUT PREJUDICE
FILED FEBRUARY 8, 2023**

Hearing conducted before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Mr. Jonathan Woodall, pro se, of Bismarck, Hot Spring County, Arkansas, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Karen H. McKinney, Barber Law Firm, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Wednesday, January 18, 2023, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2022 Lexis Replacement) and Commission Rule 099.13 (2022 Lexis Replacement).

The respondents filed a motion to dismiss with the Commission on December 12, 2022, requesting this claim be dismissed for lack of prosecution. Pursuant to the applicable law, the claimant was mailed a copy of the respondents' motion to dismiss (MTD) and the hearing notice via the United States Postal Service (USPS), First Class Mail, Return Receipt Requested. (Commission Exhibit 1). Thereafter, the claimant failed and/or refused to either respond to the respondents' motion in any way, or to appear at the subject hearing.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission's entire file in this matter.

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' MTD. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant has failed and/or refused to prosecute his claim at this time.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having been mailed due and legal notice of both the respondents' MTD and the hearing notice, the claimant failed and/or refused to either respond to the MTD or to appear at the hearing. Therefore, the claimant has waived his right to a hearing on the respondents' MTD without prejudice.
3. The claimant has to date failed and/or refused to request a hearing within the last six (6) months, and he has failed and/or refused to take any action(s) to prosecute his claim.
4. Therefore, the respondents' MTD without prejudice filed on December 12, 2022, is GRANTED; and this claim hereby is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* Section 11-9-702(a) and (b), and Commission Rule 099.13.

This Order shall not be construed to prohibit the claimant, his attorney, any attorney he may retain in the future, or anyone acting legally and on his behalf, from refiling the claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

Jonathan Woodall, AWCC No. H103334

The respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of its receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp