

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H103107**

**ANDREA WOODS,
EMPLOYEE**

CLAIMANT

**PULASKI COUNTY SPECIAL SCHOOL DIST.,
EMPLOYER**

RESPONDENT

**ARK. SCHOOL BOARDS ASS'N WORKERS'
COMPENSATION TRUST/ARK. SCHOOL BDS. ASS'N
INSURANCE CARRIER/TPA**

RESPONDENT

**OPINION AND ORDER FILED JAUNUARY 12, 2023
HOLDING RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE IN
ABEYANCE FOR 60 DAYS**

Hearing conducted on Wednesday, January 12, 2023, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant was represented by the Honorable Willard Proctor, Jr., Proctor Law Firm, Little Rock, Pulaski County, Arkansas.

The respondents were represented by the Honorable Carol Lockhard Worley, Worley, Wood & Parrish, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Wednesday, January 11, 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 Repl.). The respondents filed a motion to dismiss with the Commission on November 14, 2022, requesting this claim be dismissed without prejudice for lack of prosecution. (Respondents' Exhibit 1).

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,

Return Receipt Requested, which she received as is evidenced by Commission Exhibit 1. The claimant and her attorney appeared in person at the hearing and objected to the respondents' motion to dismiss. The claimant's attorney advised he intended to communicate and work with the respondents' attorney in order attempt to resolve some outstanding health insurance liens in order that the parties may enter into settlement negotiations. The claimant's attorney advised he intended to request a hearing if the parties' were unable to resolve the outstanding issues.

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 by reference.

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' motion to dismiss. 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 demonstrates the claimant has neither requested a hearing nor taken any action as of the hearing date to prosecute her claim.

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 decision on the respondents' subject motion to dismiss without prejudice for a period of 60 days, or until Monday, March 14, 2023 (since 60 days from the hearing date falls on a Sunday).
3. The parties have 60 days from the hearing date, or until Monday, March 14, 2023, to obtain any and all additional information they require and to attempt to

resolve any and all outstanding liens, and/or other issues, if any remain.

4. If, within five (5) days after the expiration of this 60-day time-period the claimant does not request, in writing (with a copy to the respondents' attorney, of course), a hearing before the Commission and advise both the Commission and the respondents exactly what specific issues she believes are ripe for a hearing, the ALJ will grant the respondents' motion to dismiss filed November 14, 2022, without prejudice, and without the necessity of either the respondents filing another motion, and without holding another hearing on the motion.

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