

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H300103

ROY AUSTIN, Employee

CLAIMANT

J. B. HUNT TRANSPORT, INC., Employer

RESPONDENT

ESIS, INC., Carrier

RESPONDENT

OPINION/ORDER FILED SEPTEMBER 17, 2024

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS, in Fort Smith, Sebastian County, Arkansas.

Claimant represented by LAURA BETH YORK, Attorney, Little Rock, Arkansas; although not present at hearing.

Respondent represented by JOSEPH H. PURVIS, Attorney, Little Rock, Arkansas.

OPINION/ORDER

This case comes on for review following a hearing on respondent's Motion to Dismiss.

On January 5, 2023, Laura Beth York, claimant's attorney, filed a Form AR-C requesting various compensation benefits in which he alleged injuries to his neck, back, left shoulder, chest, waist, head and other whole body; however, no hearing was requested. No further action was taken in this claim.

On July 16, 2024, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for September 10, 2024. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on July 30, 2024. That notice was returned by the United States Postal Department with the notation, "Return to Sender. Unclaimed. Unable to Forward." Ms. York indicated by email of a letter dated July 22, 2024, that she would waive her appearance at the hearing and further indicated that she had no objection to the Motion to Dismiss "WITHOUT prejudice."

After my review of respondent's Motion to Dismiss, Ms. York's response thereto that she had no objection to the motion to dismiss without prejudice, and the claimant's failure to appear at the scheduled hearing, as well as all other matters properly before the Commission, I find that respondent's Motion to Dismiss this claim should be and hereby is granted pursuant to A.C.A. §11-9-702(a)(4). This dismissal is without prejudice.

IT IS SO ORDERED.

**HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**