

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H308060

WILSON G. BAUTISTA, EMPLOYEE

CLAIMANT

BAUTISTA CONSTRUCTION, EMPLOYER

RESPONDENT

**TECHNOLOGY INSURANCE COMPANY/
AMTRUST NORTH AMERICA, CARRIER/TPA**

RESPONDENT

OPINION FILED OCTOBER 1, 2024

Hearing before Administrative Law Judge James D. Kennedy in Batesville, Arkansas, on September 25, 2024.

Claimant is pro se and failed to appear.

Respondents are represented by their attorney, William C. Frye, of North Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on September 25, 2024, in Batesville, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. 11-9-702 and Rule 13 of the Workers' Compensation Act. A Form AR-C was filed on December 12, 2023, claiming that the claimant had injured his back when he fell off a ladder. A Form AR- 2 was filed on December 20, 2023, and it provided that the date of injury was October 11, 2023, the first day of disability was October 18, 2023, the claim was accepted, and appropriate benefits would be paid. A Change of Physician Order was obtained on the 16th day of April 2024. The claimant was originally represented by Mark Peoples, attorney at law, who was allowed to withdraw by an Order from the Full Commission, dated June 25, 2024.

A Motion to Dismiss the Claim was filed on or about July 1, 2024, contending that the claimant had failed to prosecute the claim per the law and rules of the Commission. The claimant has not requested a hearing to date and more than six months have passed since the filing of the original claim. After discovery was taken on or about April 15, 2024, it appeared that the claimant was receiving TTD and a salary from the Respondent company which he owned. At the time, the claimant stated that he would provide additional medical, but no additional medical was received.

Appropriate notice was provided to the claimant at his last known address notifying him that a hearing on the Motion to Dismiss was set for September 25, 2024, in Batesville, Arkansas. The claimant did not file a response and failed to appear on the hearing date. At the time of the hearing, William C. Frye 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 Respondent, it is found that this matter should be dismissed without prejudice, for failure to prosecute pursuant to A.C.A. 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.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE