

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE N^o H400602

CHRISTOPHER R. BEMAN, EMPLOYEE	CLAIMANT
PINNACLE TOWING & RECOVERY, dba ROUTH WRECKER SERVICE, EMPLOYER	RESPONDENT
CLEAR SPRING PROPERTY & CASUALTY CO./ SEDGWICK CLAIMS MANAGEMENT, CARRIER/TPA	RESPONDENT

OPINION FILED 16 SEPTEMBER 2024

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 11 September 2024 in Little Rock, Arkansas.

The *pro se* claimant did not appear.

Worley, Wood & Parrish, PA, Ms. Melissa Wood, appeared on behalf of the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas on 11 September 2024. This case relates to a workplace injury, sustained on or about 23 June 2023. A Form AR-C was filed on 25 January 2024. A First Report of Injury was filed on 30 January 2024.

On 26 July 2024, the respondents requested a dismissal of this matter for failure to prosecute the claim. See Exhibit N^o 1. On 29 July 2024 and then again on 15 August 2024, the claimant communicated through counsel that he did not intend to oppose the dismissal, provided that the dismissal would be without prejudice.

The respondents appeared on 11 September 2024, presented their motion, and offered supporting evidence into the record. As argued by the respondents at the hearing, the file reflects no request for a hearing on a claim in the relevant time preceding the filing

of their motion. As noted in the correspondence included in Respondents' Exhibit No. 1, the claimant did not appear for the purpose of objecting to the dismissal, as a dismissal without prejudice was sought.

Ark. Code Ann. § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six months without a bona fide request for a hearing. Our Rule 99.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE