

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H400696

RAY C. BRANCH,
EMPLOYEE

CLAIMANT

JACKSONVILLE NORTH PULASKI SCHOOL DISTRICT,
EMPLOYER

RESPONDENT

ARKANSAS SCHOOL BOARDS ASSOCIATION – SIF,
CARRIER

RESPONDENT

OPINION FILED JUNE 6, 2025

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant represented by the Honorable Shelia F. Campbell, Attorney at Law, North Little Rock, Arkansas.

Respondents represented by the Honorable Guy Alton Wade, Attorney at Law, Little Rock, Arkansas.

Statement of the Case

A hearing was held on May 28, 2025, in the present matter pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (d) (Repl. 2012), and Arkansas Workers' Compensation Commission Rule 099.13.

Appropriate Notice of this hearing was had on all parties to their last known address, in the manner prescribed by law.

Although the Claimant appeared at the hearing, no testimony was taken.

Therefore, the record consists of the transcript of the May 28, 2025, hearing and the documents contained therein. Also, the entire Commission's Exhibit 1 consists of twelve (12)

pages; and the Respondents' Hearing Exhibit Packet consisting of eight (8) pages was marked as Respondents' Exhibit 1.

Discussion

On January 30, 2024, the Claimant's attorney filed with the Commission a claim for Arkansas workers' compensation benefits via a Form AR-C. Specifically, the Claimant alleged that he sustained an injury to his back on September 5, 2023. The Claimant's attorney checked boxes for workers' compensation benefits in the form of both initial and additional benefits.

The respondent-insurance-carrier filed a Form AR-2 with the Commission on February 7, 2024, wherein they denied compensability of the claim on the grounds of "incomplete investigation."

On July 11, 2024, the Claimant's attorney wrote to the Commission to request a hearing on the merits of the claim.

The claim was transferred to my office for a full hearing. Preliminary Questionnaires and Notices were mailed to the parties with deadlines for filing timely responses. A prehearing telephone conference was held in this matter on September 11, 2024. At that time, the parties agreed to return the claim to the Commission's general files pending completion of discovery, which was done.

Since this time, there has been no bona fide action on the part of the Claimant to prosecute this claim or otherwise pursue any benefits.

On April 1, 2025, the Respondents filed with the Commission a letter-motion asking that the claim be dismissed for a lack of prosecution. The Respondents notified the Claimant of their motion for dismissal by way of mailing a copy of it to his attorney.

The Commission sent a letter-notice to the Claimant and his attorney, on April 8, 2025. Per this correspondence, the Claimant was given a deadline of twenty (20) days, for filing a written response to the Respondents' motion.

There was no response from the Claimant.

Therefore, pursuant to a Hearing Notice dated May 5, 2025, the Commission notified the parties that a hearing was scheduled to address the Respondents' motion to dismiss this claim due to a lack of prosecution. Said hearing was scheduled for May 28, 2025, at 11:00 a.m., at the Arkansas Workers' Compensation Commission, in Little Rock, Arkansas.

Subsequently, a hearing was in fact conducted on the Respondents' motion for dismissal as scheduled. The Claimant and his attorney appeared at the hearing, but no testimony was taken. Nevertheless, the Respondents appeared through their attorney.

Counsel for the Respondents noted that the Claimant has failed to timely prosecute his claim for workers' compensation benefits. Counsel essentially stated that there has been no attempt on the part of the Claimant to move forward with a hearing since October 2024. At that time, the Claimant's deposition was taken. Obviously, counsel for the Respondents moved that this claim be dismissed *without prejudice* under the provisions of Ark. Code Ann. §11-9-702, and Arkansas Workers' Compensation Commission Rule 099.13. Counsel for the Claimant asked that the claim be dismissed *without prejudice*.

The record before me proves that the Claimant has failed to timely prosecute his claim for workers' compensation benefits. The Claimant does not object to his claim being dismissed *without prejudice*. Therefore, per Ark. Code Ann. §11-9-702 and Rule 099.13 of this Commission, this claim is hereby dismissed, *without prejudice*, to the refiling of it within the limitation period specified by law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the basis of the record as a whole, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The Respondents filed with the Commission, letter-motion to dismiss this claim, for which a hearing was held.
3. The evidence preponderates that the Claimant has failed to timely prosecute his claim for workers' compensation benefits. The Claimant consents to his claim being dismissed *without prejudice*.
4. Appropriate notice of the dismissal hearing was attempted on all parties to their last known address, in the manner prescribed by law.
5. The Respondents' motion to dismiss is hereby granted *without prejudice*, pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13, to the refiling of it within the limitation period specified by law.

ORDER

In accordance with the findings of fact and conclusions of law set forth above, this claim is hereby dismissed pursuant to the provisions of Ark. Code Ann. §11-9-702 and Commission Rule 099.13, *without prejudice*, to the refiling of it within the appropriate limitation period.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge