

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H401326**

**AMY BUCK,
EMPLOYEE**

CLAIMANT

**PRESBYTERIAN VILLAGE, INC.,
EMPLOYER**

RESPONDENT

**ATA WORKERS' COMPENSATION SELF-INSURED TRUST/
RISK MG'T RESOURCES, INC.
CARRIER/TPA**

RESPONDENT

**OPINION FILED MAY 28, 2025,
GRANTING RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE**

Hearing conducted on Wednesday, May 28, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Ms. Amy Buck, pro se, of Russellville, Pope County, Arkansas, failed and/or refused to appear at the hearing.

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

STATEMENT OF THE CASE

A hearing was conducted on Wednesday, May 28, 2025, to determine whether this claim should be dismissed without prejudice pursuant to **Ark. Code Ann.** § 11-9-702(a)(4) (2025 Lexis Replacement) and Commission Rule 099.13 (2025 Lexis Replacement).

The claimant herein initially was represented by counsel, Ms. Laura Beth York, of the Rainwater, Holt & Sexton law firm. By unanimous Full Commission order issued and filed on December 16, 2024, the Commission granted the claimant's attorney's motion to withdraw as the claimant's attorney of record. (Respondents' Exhibit 1 at 7).

Thereafter, on February 7, 2025, the respondents filed with the Commission a motion to dismiss this claim without prejudice (MTD) for lack of prosecution. (RX1 at 9-10). Pursuant to the applicable law the Commission provided the claimant due and legal notice of the respondents' MTD, to which the claimant filed an objection via a letter dated and filed with the Commission on March 6, 2025. In her March 6, 2025, letter, the claimant objected to the respondents' MTD; advised she intended to continue to pursue her claim; and that she would "...be obtaining another attorney to handle this claim..."; and "*Once I find another attorney, I would like to then request a hearing when I have legal representation.*" (RX1 at 12) (Emphasis added).

By email to the ALJ and the claimant dated March 7, 2025, the respondents' attorney advised that, "...unless claimant is requesting a hearing on a specific benefit she claims is due her, I'm continuing to request a hearing on the dismissal request I have filed." (RX1 at 13-15). The ALJ's office so advised the claimant who responded with another copy of her March 6, 2025, letter. The ALJ then emailed the claimant clarifying and confirming that in her March 6, 2025, letter she was in fact intending to request a hearing on her request for additional medical care. By email to the ALJ dated March 12, 2025, the claimant requested additional time to find an attorney. The ALJ responded to the claimant's email via an email dated March 14, 2025, on which he cc:'d the respondents' attorney and provided the respondents' attorney the email thread which contained the claimant's March 12, 2025, as the claimant had failed to cc: the respondents' attorney on the March 12, 2025, email to the ALJ. The ALJ's office then for a second time sent out the prehearing questionnaire and related documents to the claimant and respondents' attorney. (RX1 at 16-18).

In a subsequent email to both the claimant and the respondents' attorney dated March 14, 2025, the ALJ wrote:

Ms. Buck, I will hold your claim file in my office for an additional 30 days... – or until Wednesday, April 23, 2023 [sic, corrected to 2025] –

for either your attorney or you to file your response to the prehearing questionnaire documents with the Commission. *If my office does not receive your prehearing response by that date, we will set a hearing on the respondents' motion to dismiss, which I have held in abeyance at this time.*

(RX1 at 16) (Bracketed material and emphasis added). The ALJ also reminded the claimant it was “very important – and is, in fact, a legal requirement” that she and/or her attorney cc: the respondents’ attorney on any and all documents she files with the Commission as well as any and all written communication in any form including but not limited to emails that relate to substantive issues in her claim, and that the respondents were held to the same requirement. (RX1 at 16).

When neither the claimant or any attorney acting on her behalf failed and/or refused to file her response to the prehearing questionnaire by the stated due date of April 23, 2025, on April 24, 2025, the ALJ’s office set this matter for a hearing on the respondents’ MTD filed February 7, 2025. (RX1 at 19). The claimant was once again provided due and legal notice of the respondents’ MTD, as well as the date, time, and place of the subject hearing. This time the claimant failed and/or refused to file any response, via email or otherwise, or to respond to the MTD or hearing notice in any way. (RX1 at 1-19).

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto. (Hearing Transcript; RX1 at 1 - 19).

DISCUSSION

Consistent with **Ark. Code Ann.** § 11-9-702(a)(4) (2025 Lexis Replacement), 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 claimant’s voluntary MTD. 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

reveals that although the ALJ provided her additional time on more than one (1) occasion to hire an attorney and/or to actively prosecute her claim by at the very least filing her response to the prehearing questionnaire, the claimant has failed and/or refused to do so. Although on two (2) separate occasions the ALJ granted the claimant's requests allowing her additional time to find an attorney and/or to respond to the prehearing questionnaire, she failed and/or refused to do so. In addition, the claimant failed and/or refused to appear at the hearing and make any facts or argument as to why the respondents' MTD should be denied at this time.

Therefore, after a thorough consideration of the issues at bar, the applicable law as applied to the facts of this claim, and other relevant matters of record including the representations of credible counsel, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having received due and legal notice of the respondents' MTD without prejudice filed with the Commission on February 7, 2025, as well as notice of the subject hearing date, time, and place; and after the ALJ granted her additional time to retain an attorney to represent her or to file her response to the prehearing questionnaire, the claimant failed and/or refused to retain an attorney, or to respond to the respondents' MTD, or to take any steps to actively prosecute her claim.
3. Therefore, the preponderance of the evidence compels the decision the respondents' MTD without prejudice filed February 7, 2025, should be and hereby is GRANTED; and this claim hereby is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by **Ark. Code Ann.** Section 11-9-702(a) and (b) Rule 099.13.

If they have not already done so, the respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

MP/mp

Mike Pickens
Administrative Law Judge

