

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H402326**

**RANDY CARPENTER,  
EMPLOYEE**

**CLAIMANT**

**PBT MANAGEMENT SOLUTIONS, LLC.,  
EMPLOYER**

**RESPONDENT**

**NORGUARD INS. CO.,  
INSURANCE CARRIER/TPA**

**RESPONDENT**

**OPINION FILED JANUARY 28, 2025**

Hearing conducted on Tuesday, January 7, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant, Mr. Randy Carpenter, *Pro Se*, of Cabot, Arkansas, did not appear in person at the hearing.

The Respondents were represented by the Honorable Dillon Cordel, of the firm Anderson, Murphy, and Hopkins, Little Rock, Arkansas.

**I. BACKGROUND**

This matter comes before the Commission on a Motion to Dismiss filed by Respondents. A hearing on the motion was conducted on January 7, 2025, in Little Rock, Arkansas. Claimant, according to Commission file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a tow truck driver. The date for Claimant's alleged injury was on April 1, 2024. He reported his injury to Respondent/Employer on April 5, 2024. Respondents admitted Respondents' Exhibit 1, Motion to Dismiss, consisting of 2 pages. Also admitted into evidence was a blue-backed amended Form AR-1, amended Form AR-2, Form AR-C, copy of certified return receipt dated November 20, 2024, and a copy of certified return receipt dated December 18, 2024, *as discussed infra*.

The record reflects on April 4, 2024, a Form AR-C was filed with the Commission purporting that Claimant while hooking up a side-by-side tripped and fell injuring his right arm, shoulder, and head. On April 12, 2024, a Form AR-1 was filed with the Commission purporting that Claimant's date of disability was April 4, 2024. On April 16, 2024, an amended Form AR-1 was filed purporting a new date of disability of April 1, 2024. Also on April 16, 2024, a Form AR-2 was filed by Respondents accepting compensability as medical only. Respondents next filed an amended Form AR-2 denying compensability due to a lack of objective findings.

The Respondents filed a Motion to Dismiss on October 30, 2024, requesting this claim be dismissed for a lack of prosecution. The Claimant was sent, certified and regular U.S. Mail, notice of the Motion to Dismiss from my office on November 5, 2024, to his last known address. The certified motion notice was unclaimed by Claimant as noted on the November 20, 2024, return receipt. The motion notice was also sent regular U.S. Mail and was not returned to the Commission. Claimant did not respond to the Motion, in writing, as required. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on December 2, 2024. The certified notice was unclaimed according to the return receipt dated December 18, 2024. The notice sent regular First-Class Mail was not returned. Thus, the hearing took place on January 7, 2025. And as mentioned before, the Claimant did not show up to the hearing.

**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record as a whole and other matters properly before the Commission, 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 Commission has jurisdiction over this claim.
2. The Claimant and Respondents both had reasonable notice of the January 7, 2025, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under AWCC Rule 099.13.
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

**III. DISCUSSION**

AWCC 099.13 provides:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

*See generally Johnson v. Triple T Foods*, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with AWCC Rule 099.13, the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. The certified hearing notice sent to the Claimant's address of record was unclaimed; however, the hearing notice sent regular First-Class mail was not returned to the Commission. The Claimant has the responsibility of supplying

the Commission with his current address. Thus, I find by the preponderance of the evidence that reasonable notice was given to both parties.

AWCC Rule 099.13 allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed his Form AR-C on April 4, 2024. Since then, he has failed to request a bona fide hearing. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute his claim by failing to request a hearing. Thus, Respondents' Motion to Dismiss should be granted.

**CONCLUSION**

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

**IT IS SO ORDERED.**

---

STEVEN PORCH  
Administrative Law Judge