

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H307602**

**DANIEL A. CONRADIE,
EMPLOYEE**

CLAIMANT

**DRIVER FARMS PARTNERSHIP,
EMPLOYER**

RESPONDENT

**STONETRUST COMMERCIAL INS. CO.,
CARRIER/TPA**

RESPONDENT

OPINION FILED MAY 30, 2024

Hearing conducted on Wednesday, May 3, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Forrest City, St. Francis County, Arkansas.

The Claimant, Mr. Daniel A. Conradie, *pro se*, of Turrell, Arkansas, did not appear in person at the hearing.

The Respondents were represented by the Honorable Michael Ryburn, Little Rock, Arkansas.

BACKGROUND

This matter comes before the Commission on a Motion to Dismiss by Respondents. A hearing was conducted on May 3, 2024, in Forrest City, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a laborer. The Claimant allegedly injured several body parts while working for Respondent/Employer on August 19, 2023. Admitted into evidence was Respondent Exhibit 1, Form AR-C and Motion to Dismiss, consisting of two pages. Commission Exhibit 1, correspondence, and Certified U.S. Mail return receipts, consisting of six pages. I have also blue-backed Form AR-1 and Form AR-2, *as discussed infra*.

The record reflects on November 20, 2023, a Form AR-C was filed with the Commission by then-attorney Mark Peoples. On December 5, 2023, a Form AR-1 was filed in this case,

reflecting that Claimant purportedly injured his groin, knee, neck, and shoulder when he slipped in a muddy drainage ditch when walking back from the farm fields. Respondents on December 8, 2023, filed a Form AR-2, representing the denial of the claim. Attorney Michael Ryburn entered his appearance for Respondents on November 29, 2023.

On January 9, 2024, Attorney Peoples filed a Motion to Withdraw citing differences of opinion regarding the prosecution of the claim. The Full Commission granted the motion on February 8, 2024. Respondents' counsel then filed a Motion to Dismiss on February 12, 2024, requesting this claim be dismissed for a lack of prosecution. The Claimant was sent, via certified and regular U.S. Mail, notice of the Motion to Dismiss to his last known address of record on February 13, 2024. The certified notice was unclaimed, and the notice sent regular U.S. Mail was returned to the Commission. The Claimant did not leave a forwarding address with the U.S. Postal Service. Nevertheless, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of the Respondents' Motion to Dismiss hearing notification 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 March 8, 2024. The certified notice was again unclaimed, and the notice sent regular First-Class mail was returned to the Commission. However, the difference this time was that the certified mail had the word "Refused" on it and was dated April 29, 2024. Due to a hearing date change, another hearing notification was sent on March 13, 2024, to the address of record and the First Class Certified Mail, Return Receipt Requested was returned with "Refused" written on it and dated March 15, 20224, and the regular First-Class Mail was returned to the Commission. The hearing took place on May 3, 2024. As mentioned before, the Claimant did not show up to the hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Therefore, after a thorough consideration of the facts, issues, the applicable law, and the evidentiary record, I hereby make the following findings of fact and conclusions of law:

1. The Commission has jurisdiction over this claim.
2. The Claimant and Respondents both had reasonable notice of the May 3, 2024, 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.

DISCUSSION

Consistent with AWCC Rule 099.13, the Commission scheduled and conducted a hearing, with proper notice, on the Respondents' Motion to Dismiss. Commission Exhibit 1 provides multiple Certified U.S. Mail Return Receipts. No mail was claimed by the Claimant. The notices sent to Claimant's last known address via regular First-Class mail were likewise returned to the Commission. It stands to reason that it is the responsibility of both the Claimant and Respondent to provide the Commission with their proper and most up to date mailing address. My review of the evidence in the record is clear, the Claimant has failed to do so. Thus, given the circumstances, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

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 has filed his Form AR-C on November 20, 2023. Since then, Claimant has taken no action in furtherance of the prosecution of this claim. Therefore, I do find the Respondent has proven by the preponderance of the evidence

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that Claimant has failed to prosecute his claim. And as a result, 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 granted and this claim is hereby dismissed without prejudice.

IT IS SO ORDERED.

Steven Porch
Administrative Law Judge