

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H305276**

**STACEY DOTTA,  
EMPLOYEE**

**CLAIMANT**

**D & H CO.,  
EMPLOYER**

**RESPONDENT**

**GREAT AMERICAN ASSURANCE CO.,  
CARRIER/TPA**

**RESPONDENT**

**OPINION FILED SEPTEMBER 23, 2024**

Hearing conducted on Friday, September 13, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Jonesboro, Craighead County, Arkansas.

The Claimant, Ms. Stacey Dotta, pro se, of Paragould, Arkansas, did not appear in person at the hearing.

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

**BACKGROUND**

This matter comes before the Commission on a Motion to Dismiss by Respondents. A hearing was conducted on September 13, 2024, in Jonesboro, 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 cashier. The date for Claimant's alleged injury was on August 10, 2023. She reported her injury to Respondent/Employer on August 11, 2023. Admitted into evidence was Respondents Exhibit 1, Form AR-C and Claimant's Attorney's Motion to Withdraw, consisting of 2 pages. I have also blue-backed Form AR-1, Form AR-2, Dotta email dated June 30, 2024, a certified return receipt dated June 17, 2024, copy of certified envelope received August 27, 2024, and copy of hearing notice, *as discussed infra*.

The record reflects on August 17, 2023, a Form AR-1 was filed with the Commission purporting that Claimant injured herself when she stood up from cleaning the beverage station. The details of the injury were not mentioned in this form. On August 21, 2023, a Form AR-2 was filed with no mention of whether Respondents would deny compensability of this claim. On September 22, 2024, Claimant filed a Form AR-C through her then-attorney, Tanner Thomas of Rainwater, Holt, and Sexton, purporting an alleged right knee injury. Attorney Jason Ryburn entered his appearance on behalf of the Respondents on September 5, 2023. Attorney Laura Beth York, also with Rainwater, Holt, and Sexton, filed a Motion to Withdraw as Counsel on behalf of her firm that was granted on May 23, 2024.

The Respondents next filed a Motion to Dismiss on June 5, 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 June 14, 2024, to her last known address. The certified notice was claimed by Claimant on June 17, 2024. Also, the notice sent regular U.S. Mail was not returned to the Commission. Claimant did respond to the notice in writing as required on June 30, 2024, objecting to the dismissal and willing to have a hearing on the merits of her claim. Due to Claimant's response, I have held the motion to dismiss in abeyance on July 1, 2024. Since then, Claimant has been sent a set of prehearing questionnaires which has not been completed and return to the Commission to this date. The prehearing questionnaire was due July 23, 2024. Due to Claimant's failure to prosecute her claim, I have reinstated the Motion to Dismiss. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at her current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on July 30, 2024. The certified notice was returned to the Commission unclaimed but

the regular First-Class mail notices were not returned. The hearing took place on September 13, 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 September 13, 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 reasonable notice, on the Respondents' Motion to Dismiss. Though the hearing notice was unclaimed and returned to the Commission on August 27, 2024, the same notice was also sent to the Claimant's address of record by First-Class U.S. Mail on July 30, 2024, and did not return to the Commission. The Claimant is responsible for providing the Commission with her current address. The Commission is responsible for providing reasonable notice of a hearing to the Claimant. Sending a hearing notice to the last known address that was provided to it by the Claimant is reasonable. 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 her Form AR-C on September 22, 2023. Since then, Claimant has objected to the dismissal filed by the Respondents on June 5, 2024, but failed to turn in her prehearing questionnaire when the motion was held in abeyance. The Claimant has failed to do the bare minimum in prosecuting her claim. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute her 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 denied.

**IT IS SO ORDERED.**

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Steven Porch  
Administrative Law Judge