

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. H306408**

**CAROLEA R. FLETCHER,  
EMPLOYEE**

**CLAIMANT**

**TEAM STAFFING, INC.,  
EMPLOYER**

**RESPONDENT**

**AMFED NAT'L INS. CO./  
ASCOT WORKERS' COMPENSATION GROUP  
CARRIER/TPA**

**RESPONDENT**

**OPINION TO DISMISS WITHOUT PREJUDICE  
FILED MAY 28, 2024**

Hearing conducted on Tuesday, May 28, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Ms. Carolea R. Fletcher, pro se, of Little Rock, Pulaski County, Arkansas, failed and/or refused to attend the hearing.

The respondents were represented by the Honorable R. Scott Zuerker, Ledbetter, Cogbill, Arnold & Harrison, LLP, Ft. Smith, Sebastian County, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted on Tuesday, May 28, 2024, pursuant to the respondents' motion to dismiss without prejudice pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Repl.).

The respondents filed a motion to dismiss without prejudice for lack of prosecution with the Commission on April 3, 2024. The claimant had been represented by counsel; however, by Commission order filed December 19, 2023, the claimant's counsel was allowed to withdraw as her attorney of record. Consequently, pursuant to the applicable law the Commission mailed a copy of the respondents' motion to dismiss, as well as notice of the subject hearing to the claimant at her last known address of record on file with the Commission. The claimant failed and/or refused

to respond to the respondents' motion to dismiss in any way, and she failed and/or refused to appear at the subject hearing.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

### **DISCUSSION**

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), 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 respondents' motion to dismiss. 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 the claimant does not wish to proceed with the prosecution of his claim at this time and, therefore, he voluntarily concurs with the respondents' motion to dismiss the claim at this time, so long as the dismissal is without prejudice to its refiling if and when the claim becomes ripe for hearing.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Commission has jurisdiction of this claim.
2. The claimant failed and/or refused to respond in any way to the respondents' motion to dismiss without prejudice filed April 3, 2024, and failed an/or refused to appear at the subject hearing. Therefore, she hereby is deemed to have waived her right to a hearing on the respondents' motion to dismiss.
3. The respondents' motion to dismiss without prejudice filed April 3, 2024, should be and hereby is GRANTED; and this claim is dismissed *without prejudice* to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* Section 11-9-702(a) and (b), and Commission Rule 099.13.

This Order shall *not* be construed to prohibit the claimant, her attorney, any attorney she may retain in the future, or anyone acting legally and on her behalf from refiling this claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

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.**

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Mike Pickens  
Administrative Law Judge

MP/mp