

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE N^o H207056

DARIUS S. GRAYDON, EMPLOYEE

CLAIMANT

**UNIVERSITY OF ARKANSAS
AT PINE BLUFF, EMPLOYER**

RESPONDENT

**PUBLIC EMPLOYEE CLAIMS DIVISION,
CARRIER/TPA**

RESPONDENT

OPINION FILED 17 DECEMBER 2024

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 12 December 2024 in Pine Bluff, Arkansas.

Mr. Charles R. Padgham waived his appearance for the claimant.

Ms. Charles H. McLemore appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Pine Bluff, Arkansas, on 12 December 2024. This case relates to an alleged workplace injury sustained on or about 7 September 2022. A First Report of Injury was filed by the respondents on 31 October 2022, and A Form AR-2 was filed the following day, noting that the claim was denied for a lack of objective medical findings. Prior to those filings, a Form AR-C was filed by the claimant, through counsel, on 30 September 2022 claiming injuries to the claimant's right hip, leg, and ankle. See Respondents' Exhibit N^o 1.

The respondents filed a Motion to Dismiss for Failure to Prosecute on 19 September 2024, citing the applicable statute and rule. In a letter dated 24 September 2024, the claimant advised that he did not object to the respondents' motion for dismissal. *Id.*

The respondents appeared on 12 December 2024, presented their motion, and offered supporting evidence into the record. As argued by the respondents at the hearing, the file reflects no request for a hearing on a claim in the relevant time preceding the filing of their motion. And the claimant does not object to the dismissal of this claim.

Ark. Code Ann. § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six months without a bona fide request for a hearing. Our Rule 99.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE