

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**AWCC FILE No H300453**

**RICKY GRIGGS, EMPLOYEE**

**CLAIMANT**

**GEORGE FISHER HARVEL, LLC, EMPLOYER**

**RESPONDENT**

**TRAVELERS INDEMNITY COMPANY, CARRIER/TPA**

**RESPONDENT**

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**OPINION FILED 26 JUNE 2024**

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Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 26 June 2024 in Little Rock, Arkansas.

The *pro se* claimant did not appear.

Mr. Guy Wade, Friday, Eldridge & Clark, LLP, appeared for the respondents.

**STATEMENT OF THE CASE**

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 26 June 2024. This case relates to an alleged workplace injury, sustained on or about 28 December 2022.

A Form C was filed on behalf of the claimant on 23 January 2023 by Rainwater, Holt & Sexton. A First Report of Injury was filed on 24 January 2023 and a Form 2 was filed the same day, accepting the claim as medical-only. A Form 4 noting the closing of payments made on the claimant's behalf was filed by the respondents on 6 September 2023.

On 8 March 2024, the claimant's attorney requested to withdraw as counsel. By way of an Order dated 10 April 2024, the Full Commission granted the motion to withdraw. Then, on 17 April 2024, the respondents requested a dismissal of this matter for failure to prosecute the claim. See Exhibit No 1.

A letter from the Commission to the claimant communicating that motion was dated 23 April 2024 and another letter setting a hearing on the motion was dated 15 May 2024.

The Commission's file is absent any responsive correspondence from the claimant. I noted at the hearing that mailings from the Commission to claimants are sent via both First Class and Certified Mail with return receipts requested. Returned mail is regularly appended to the Commission's file. This claim file includes only a return of the 23 April 2024 letters providing notice of the respondents' motion.

The respondents appeared on 26 June 2024, presented their motion, and offered supporting evidence into the record. Before going on the record, the respondents' counsel surveyed the Commission's waiting area, and the claimant was not present. 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 did not appear at the hearing to resist 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.**

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JAYO. HOWE  
ADMINISTRATIVE LAW JUDGE