

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No H400749

BRYAN G. HAMMOCK, EMPLOYEE

CLAIMANT

PREWETT ENTERPRISES, INC., EMPLOYER

RESPONDENT

LIBERTY INSURANCE CORP., CARRIER/TPA

RESPONDENT

OPINION FILED 16 OCTOBER 2024

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 16 October 2024 in Little Rock, Arkansas.

The *pro se* claimant did not appear.

The Ryburn Law Firm, Mr. Jason Ryburn, 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 16 October 2024. This case relates to an alleged workplace injury, sustained on or about 19 January 2024. A First Report of Injury was filed by the respondents on 22 January 2024, and a Form AR-2 was filed on 1 February 2024, noting a finger injury and that the claimant tested positive for marijuana on the date of the injury. A Form AR-C was also filed on the claimant's behalf on 1 February 2024. See Respondents' Exhibit No 1.

On 20 August 2024, the Full Commission entered an Order granting a request from the claimant's counsel to withdrawal from the matter. On 27 August 2024, the respondents requested a dismissal of this matter for failure to prosecute the claim. Letters providing notice of that motion and notice of the hearing were sent to the claimant, consistent with the Commission's practice. 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. The Commission's file includes a number of returned mailings sent to the address the claimant has maintained with the Commission.

The respondents appeared on 16 October 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 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.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE