

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H302397**

<b>JOSHUA JACKSON, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>SHEARERS FOODS, LLC, EMPLOYER</b>	<b>RESPONDENT</b>
<b>FARMINGTON CASUALTY CO., CARRIER</b>	<b>RESPONDENT</b>
<b>TRAVELERS INDEMNITY CO., TPA</b>	<b>RESPONDENT</b>

**OPINION FILED AUGUST 28, 2024**

Hearing conducted on Friday, August 23, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Jonesboro, Craighead County, Arkansas.

The Claimant represented himself, *Pro Se*, McCrory, Arkansas.

The Respondents were represented by the Honorable Guy Alton Wade, Little Rock, Arkansas.

**BACKGROUND**

This matter comes before the Commission on a Motion to Dismiss by Respondents. A hearing was conducted on August 23, 2024, in Jonesboro, Arkansas. No testimony was taken in the case. Claimant, according to the Commission's file, is *Pro Se*. Admitted into evidence was Respondent Exhibit 1, Form AR-C, Form AR-2, correspondence, notice, consisting of 11 pages. I have blue-backed Form AR-1, *as discussed infra*.

The record reflects on April 13, 2023, a Form AR-C was filed by then-attorney, Laura Beth York, purporting that Claimant sustained injuries to his head, and left shoulder during the course of employment, on February 10, 2023. On April 19, 2023, a Form AR-1 was filed stating these injuries occurred while adjusting boxes on a pallet and a box fell striking Claimant on the back. The Respondent/Employer was made aware of Claimant's injuries the same day it occurred,

February 10, 2022. The form further states that the Claimant worked as a warehouse worker for Respondent/Employer. On April 19, 2023, Respondents filed a Form AR-2 accepting contusion injuries on his head and left shoulder. Claimant's attorney, Tanner Thomas, who worked in the same firm as Laura Beth York, filed a Motion to Withdraw as Counsel on June 5, 2023. The Motion was granted on June 15, 2023, by the Full Commission. Respondents' counsel, Guy Alton Wade, entered his appearance April 17, 2024, and filed a Motion to Dismiss. The motion alleges a failure to prosecute by the Claimant. Claimant was sent notice of the Motion to Dismiss certified and regular First-Class Mail on April 24, 2024, to the address of record. Both the certified and First-Class letters were returned to the Commission.

The Claimant was then mailed due and proper legal notice of the hearing date via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail on May 23, 2024, to his address of record. The certified notice was not claimed by Claimant. The hearing notice sent regular First-Class mail was returned to the Commission with a handwritten address of 611 First Street, Tuckerman, Arkansas 72473, not 323 Boyd Street, Newport, Arkansas 72112, the address of record. Out of precaution, a hearing notice was sent to the 611 First Street address via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail on June 6, 2024. Again, the notices were returned to the Commission. The hearing took place on August 23, 2024, and the Claimant was not present.

**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 August 23, 2024, hearing.
3. Respondents have proven by a 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 proper notice, on the Respondents' Motion to Dismiss. Claimant did not claim the certified hearing notice sent to his address of record. However, the hearing notice sent U.S. First-Class mail, to his address of record, was not returned to the Commission. The Claimant is responsible for keeping the Commission updated on his current address. Thus, I find by the preponderance of the evidence that Claimant received reasonable notice of the Motion to Dismiss hearing.

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 his Form AR-C on April 13, 2023. Since then, no bona fide request for a hearing has occurred. Therefore, I do find that the Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim. 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 granted, *without prejudice*.

**IT IS SO ORDERED.**

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Steven Porch  
Administrative Law Judge