

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **H206562**

EARNEST KING, EMPLOYEE	CLAIMANT
ART TRANSPORT INC., EMPLOYER	RESPONDENT
AMTRUST NORTH AMERICA/INSURANCE CARRIER	RESPONDENT

OPINION/ORDER FILED **OCTOBER 4, 2024**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF, in Fort Smith, Sebastian County, Arkansas.

Claimant is represented by MATTHEW J. KETCHAM, Attorney, Fort Smith, Arkansas.

Respondents are represented by WILLIAM C. FRYE, Attorney, North Little Rock, Arkansas

OPINION/ORDER

On November 15, 2022, claimant filed Form AR-C, alleging a compensable injury on March 23, 2022. Claimant was represented at the time by Matthew J. Ketcham, who remains his attorney of record.

On April 26, 2024, respondent filed a Motion to Dismiss, alleging that it had been more than six months since claimant filed his Form AR-C with the Commission, but he had not made a request for a hearing in that time. Rather than setting a hearing on that Motion to Dismiss, a Prehearing Conference was conducted and the parties agreed that the Motion to Dismiss should be held in abeyance pending the outcome of the hearing on the merits. That hearing was scheduled for September 30, 2024, at 1:30 P.M. Notice of the scheduled hearing was sent to claimant by certified mail at the last known address in the Commission's file. The notice was delivered to claimant on August 2, 2024. Claimant did not appear in person at the hearing on September 30, 2024, as his attorney had asked for him to be excused and I agreed he did not have to appear.

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Mr. Ketcham appeared at the hearing and advised that after this matter was filed, discovery revealed that claimant was not an employee of respondent ART Transportation, but rather was working as an independent contractor. As such, he saw no need to proceed to the merits of the claim at the scheduled hearing.

Mr. William Frye, attorney for respondents, then renewed his Motion to Dismiss which had been held in abeyance. Mr. Ketcham did not object to it being presented at that time.

Therefore, based on my review of respondent's motion, the claimant's lack of objection to it and all other matters properly before the Commission, I find that respondent's Motion to Dismiss this claim should be and hereby is granted. This dismissal is pursuant to Commission Rule 099.13 and is without prejudice.

IT IS SO ORDERED.

JOSEPH C. SELF
ADMINISTRATIVE LAW JUDGE