

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H205447**

**SARAH E. LONG,
EMPLOYEE**

CLAIMANT

**SOUTHEAST ARKANSAS EDUCATION
SERVICE COOPERATIVE,
EMPLOYER**

RESPONDENT

**ARKANSAS SCHOOL BOARDS ASS'N
WORKERS' COMPENSATION TRUST/
ARK. SCHOOL BOARDS ASS'N
CARRIER/TPA**

RESPONDENT

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED SEPTEMBER 25, 2024**

Hearing conducted on Wednesday, September 25, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Ms. Sarah E. Long, pro se, of McGehee, Desha County, Arkansas, failed and/or refused to appear at the hearing.

The respondents were represented by the Honorable Carol Lockard Worley, Worley, Wood & Parrish, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Wednesday, September 25, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Replacement).

On June 10, 2024, the respondents filed with the Commission a motion to dismiss this claim without prejudice (MTD) pursuant to the aforementioned statute and Commission rule. Thereafter, by letter filed with the Commission on June 26, 2024, the claimant objected to the respondents' MTD, and she requested a "hearing on the merits"; however, she did not state what specific issues, if any, she believed were necessary and/or ripe for litigation. (Respondents' Exhibit 10-16).

After receiving the claimant's objection/hearing request letter, the respondents filed a letter with the Commission on July 12, 2024, advising the ALJ that: they had fully accepted this claim; had paid all appropriate medical and indemnity benefits, including but not limited to permanent partial disability (PPD) benefits consistent with Dr. Wayne L. Bruffett's ten percent (10 percent) permanent anatomical impairment rating; the claimant had returned to full duty work with no restrictions; and requesting the ALJ not set this matter for a full hearing until the claimant had advised both the Commission and the respondents what specific issue(s) she believed were ripe for determination and/or litigation. (RX1).

Consequently, the ALJ's office mailed the prehearing questionnaire documents to both the claimant and the respondents. When the claimant failed and/or refused to return the prehearing questionnaire documents to the Commission, thereby advising both the Commission and the respondents what specific issue(s) she intended to litigate, the ALJ scheduled a hearing on the respondents' aforementioned MTD. Pursuant to the applicable law the claimant was provided due and legal notice of both the respondents' MTD, as well as notice of the subject hearing to her last known of address on record with the Commission via the United States Postal Service (USPS), Certified Mail, Return Receipt Requested. Thereafter, the claimant failed and/or refused to object and/or respond to the respondents' MTD or to the Commission's hearing notice in any way. Moreover, the claimant failed and/or refused to appear at the subject hearing. (RX1 at 10-23).

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' MTD. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant has failed and/or refused to prosecute her claim at this time.

Therefore, after a thorough consideration of the applicable law as applied to the facts of this claim, the issues, and other relevant matters of record, as well as the representations of credible counsel I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having received due and legal notice of the respondents' motion to dismiss without prejudice filed with the Commission on June 10, 2024, and, thereafter, the prehearing questionnaire and related documents, as well as notice of the subject hearing date, time, and place, the claimant failed and/or refused to respond to the prehearing questionnaire documents in any way, and she failed and/or refused to appear at the subject hearing. Therefore, she is deemed to have waived her right to a hearing on the respondents' motion herein.
3. The preponderance of the evidence compels the decision that the respondents' subject motion to dismiss without prejudice filed June 10, 2024, should be and hereby is GRANTED; and this claim hereby is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* Section 11-9-702(a) and (b), and Commission Rule 099.13.

Sarah E. Long, AWCC No. H205447

If they have not already done so, the respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp

MP/mp