

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H307961

DERRICK LY, Employee

CLAIMANT

SIMMONS PREPARED FOODS, INC., Employer

RESPONDENT

SEDGWICK CLAIMS MANAGEMENT SERVICES, Carrier/TPA

RESPONDENT

OPINION FILED SEPTEMBER 10, 2024

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant not represented by counsel and not appearing at hearing.

Respondent represented by R. SCOTT ZUERKER, Attorney at Law, Fort Smith, Arkansas.

STATEMENT OF THE CASE

This case comes on for review following a hearing on respondents' Motion to Dismiss.

On December 18, 2023, the claimant, through his attorney, Jarid Kinder, filed an AR-C requesting various compensation benefits in which he alleged an injury to his right arm and shoulder on November 16, 2023. The claim was controverted in its entirety.

On January 23, 2024, Mr. Kinder filed a Motion to Withdraw as Counsel, which the Full Commission granted on February 16, 2024. No further action was taken regarding this claim.

On June 24, 2024, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for August 15, 2024. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on July 9, 2024. That certified mail notice was returned to the Commission by the Post Office with a notation "Return to Sender. Not Deliverable as Addressed. Unable to Forward."

After my review of the respondents' Motion to Dismiss, the claimant's lack of response thereto, and all other matters properly before the Commission, I find that respondents' Motion to Dismiss this claim should be and hereby is granted pursuant to Commission Rule 099.13. This dismissal is without prejudice.

ORDER

Pursuant to the above statement of the case and Commission Rule 099.13, I have no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

If respondents have not already done so, they are directed to pay the court reporter, Veronica Lane, her fees and expenses within thirty (30) days of receipt of her invoice.

IT IS SO ORDERED.

**ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**