

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**AWCC FILE N<sup>o</sup> H308126**

**EILEEN MONTES, EMPLOYEE**

**CLAIMANT**

**MO GO LOGISTICS, LLC, EMPLOYER**

**RESPONDENT**

**LUBA CASUALTY INS. CO., CARRIER/TPA**

**RESPONDENT**

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**OPINION FILED 10 OCTOBER 2024**

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Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 9 October 2024 in Little Rock, Arkansas.

The *pro se* claimant did not appear.

Worley, Wood & Parrish, PA, Mr. Jarrod Parrish, 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 9 October 2024. This case relates to an alleged workplace injury, sustained on or about 30 November 2023. A First Report of Injury was filed by the respondents on 15 December 2023, and A Form AR-2 was filed on 19 December 2023, noting that the claim was under investigation for compensability. A Form AR-C was filed on the claimant's behalf on 28 December 2023. See Respondents' Exhibit N<sup>o</sup> 1.

The claimant proceeded in this matter with counsel for some time, but on 7 August 2024, the Full Commission entered an Order granting her counsel's withdrawal from the matter. On 22 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 does not include any responsive correspondence from the claimant, nor does it include any returned mailings.

The respondents appeared on 9 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.**

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JAYO. HOWE  
ADMINISTRATIVE LAW JUDGE