

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H404582**

**KEVIN D. MARTIN,
EMPLOYEE**

CLAIMANT

**ROCK REGION METRO,
SELF-INSURED EMPLOYER**

RESPONDENT

**RISK MANAGEMENT RESOURCES,
TPA**

RESPONDENT

OPINION FILED APRIL 30, 2025

Hearing conducted on Wednesday, April 16, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant, Mr. Kevin D. Martin, *Pro Se*, of Scott, Arkansas.

The Respondents were represented by Melissa Wood, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on February 13, 2025. A hearing on the motion was conducted on April 16, 2025, in Little Rock, Arkansas. Claimant, according to Commission file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a bus operator. The date for Claimant's alleged injury was on May 15, 2024. He reported his injury to Respondent/Employer on the same day. Respondents admitted into the record Respondents' Exhibit 1, pleadings, consisting of 8 pages. The Commission has admitted into evidence Commission Ex. 1, pleadings, correspondence, and U.S. Mail return receipts, consisting of 7 pages, *as discussed infra*.

The record reflects on July 18, 2024, a Form AR-C was filed with the Commission purporting that Claimant was involved in a vehicle accident where he allegedly injured his neck,

right shoulder, left lower leg, and low back. On July 24, 2024, a Form AR-1 was filed with the Commission purporting that Claimant's disability began July 19, 2024. On July 26, 2024, a Form AR-2 was filed by Respondents neither accepting nor denying compensability. However, based on argument by Respondents' counsel, Melissa Wood, during the hearing, the claim was accepted as "medical only". Respondents' counsel also argued that Dr. Wayne Bruffett found that Claimant had reached maximum medical recovery on August 21, 2024.

On February 13, 2025, Respondents' counsel filed a Motion to Dismiss due to Claimant's failure to prosecute his claim. The Claimant was sent, on February 14, 2025, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to his last known address. The certified motion notice was claimed by Claimant as noted on the February 21, 2025, return receipt. The Claimant did not respond to the Motion, in writing, as required. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on March 14, 2025. The certified notice was claimed on March 18, 2025, return notice. The hearing took place on April 16, 2025. And as mentioned before, the Claimant did not show up to the hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Commission has jurisdiction over this claim.
2. The Claimant and Respondents both had reasonable notice of the April 16, 2025, hearing.

3. Respondents have proven by the 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.

III. DISCUSSION

AWCC 099.13 provides:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with AWCC Rule 099.13, the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. The certified hearing notice was claimed on March 18, 2025, per the return postal notice bearing the same date. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

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 July 18, 2024. Since then, he has failed to request a bona fide hearing. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute his claim by failing to request a hearing. 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 hereby granted, and Claimant's claim is dismissed *without prejudice*.

MARTIN, AWCC No. H404582

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge