

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H402264**

STACEY MYERS, EMPLOYEE

CLAIMANT

**CITY OF LITTLE ROCK,
SELF-INSURED EMPLOYER**

RESPONDENT

**RISK MGMT. SOLUTIONS,
THIRD-PARTY ADM'R**

RESPONDENT

OPINION FILED MARCH 17, 2026

Hearing before Administrative Law Judge O. Milton Fine II on March 17, 2026, in Little Rock, Pulaski County, Arkansas.

Claimant represented by Mr. Mark Alan Peoples, Attorney at Law, Little Rock, Arkansas (neither appearing).

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

I. BACKGROUND

This matter comes before the Commission on the Motion to Dismiss by Respondents. A hearing on the motion was conducted on March 17, 2026, in Little Rock, Arkansas. No testimony was taken in the case. Claimant failed to appear at the hearing; and her counsel waived his appearance. Admitted into evidence were Commission Exhibit 1 and Respondents' Exhibit 1, pleadings, correspondence and forms related to this claim, consisting of one and nine pages, respectively. See Ark. Code Ann. § 11-9-705(a)(1) (Repl. 2012)(Commission must "conduct the hearing . . . in a manner which best ascertains the rights of the parties").

The record reflects the following procedural history:

On July 15, 2025, through counsel, Claimant filed a Form AR-C. Therein, she alleged that she suffered post-traumatic stress disorder(“PTSD”) and injured her arm and upper body on March 26, 2024, when she was burned at work. The boxes on the form were checked to indicate that Claimant was seeking all manner of initial and additional benefits. Per the Form AR-2 that was filed on April 8, 2024, Respondents accepted injuries to the shoulders, chest, abdomen, and cheek and paid medical and indemnity benefits pursuant thereto. Later, in a letter dated September 5, 2025, Respondents confirmed that they have accepted as compensable not only all of Claimant's burn injuries, but her PTSD as well. Review of the file discloses that Claimant has never requested a hearing on the claim.

Nothing further took place on the claim until March 2, 2026. On that date, Respondents filed the instant motion, asking for dismissal of the claim under AWCC R. 099.13 (now codified as 11 C.A.R. § 25-110(d)) and Ark. Code Ann. § 11-9-702 (Repl. 2012) due to Claimant's alleged failure to, inter alia, make a bona fide hearing request within the previous six months. The file was assigned to Administrative Law Judge James Kennedy on March 2, 2026; and on that same date, his office wrote Claimant and copied her counsel, asking for a response to the motion within 20 days. Claimant's counsel that same day by email: “I spoke with her [Claimant] and we do not oppose dismissal, provided it is w/o [without] prejudice. Thanks.”

On March 3, 2026, a hearing on the Motion to Dismiss was scheduled for March 17, 2026, at 11:00 a.m. at the Commission in Little Rock. The Notice of Hearing was sent to Claimant's counsel. In response, counsel emailed the Commission on March 3, asked to be excused from the hearing. I am interpreting the foregoing as a waiver of appearance by both Claimant and her attorney.

The hearing on the Motion to Dismiss proceeded as scheduled on March 17, 2026. Again, Claimant and her counsel failed to appear at the hearing. But Respondents appeared through counsel and argued for dismissal under the aforementioned authorities.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following Findings of Fact and Conclusions of Law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.
3. The evidence preponderates that Claimant has failed to prosecute her claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted; this claim is hereby dismissed without prejudice under 11 C.A.R. § 25-110(d).

III. DISCUSSION

11 C.A.R. § 25-110(d) reads:

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).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

As shown by the evidence recounted above, (1) the parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon; and (2) Claimant has failed to pursue her claim because she has taken no further action in pursuit of it since the filing of her Form AR-C on September 2, 2025. Thus, the evidence preponderates that dismissal is warranted under § 25-110(d). Because of this finding, it is unnecessary to address the application of Ark. Code Ann. § 11-9-702(d) (Repl. 2012).

That leaves the question of whether the dismissal of the claim should be with or without prejudice. The Commission possesses the authority to dismiss claims with prejudice. *Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App. 137, 744 S.W.2d 402 (1988). The Commission and the appellate courts have expressed a preference for

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dismissals *without prejudice*. See *Professional Adjustment Bureau v. Strong*, 75 Ark. 249, 629 S.W.2d 284 (1982)). Respondents at the hearing asked for a dismissal without prejudice; and Claimant (through counsel) indicated that his client did not object to this. I agree and find that the dismissal of this claim should be and hereby is entered *without prejudice*.¹

IV. CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim is hereby dismissed *without prejudice*.

IT IS SO ORDERED.

O. MILTON FINE II
Chief Administrative Law Judge

¹“A dismissal ‘without prejudice’ allows a new [claim] to be brought on the same cause of action.” BLACK’S LAW DICTIONARY 825 (abridged 5th ed. 1983).