

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H407255

WILLIE NASH, EMPLOYEE

CLAIMANT

GOODYEAR TIRE & RUBBER CO.,
EMPLOYER

RESPONDENT

LIBERTY INSURANCE CORP.,
CARRIER/TPA

RESPONDENT

OPINION FILED JANURARY 14, 2026

Hearing held before ADMINSTRATIVE JUDGE CHANDRA L. BLACK, in Miller County, Texarkana, Arkansas.

The pro se Claimant failed to appear at the dismissal hearing.

Respondents represented by the HONORABLE KAREN H. McKINNEY, Attorney at Law, Little Rock, Arkansas.

Statement of the Case

A hearing was held on January 14, 2026, in the above-referenced matter pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether this case should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)).

Appropriate notice of this hearing was tried on all parties to their last known address, in the manner instructed by law.

No testimony was taken.

The record consists of the hearing transcript of January 1, 2026, and the documents held therein. Commission's Exhibit 1 consisting of five pages, and one envelope for a total of (6) pages has been marked accordingly, and Respondents introduced into evidence an exhibit consisting of

twenty-nine (29) pages, which was thus marked Respondents' Exhibit 1. Both exhibits were introduced into evidence without objection.

Background

The procedural history of this claim is as follows:

This claim involves an alleged back injury on or about October 18, 2024. The Claimant reported to management that he was placing a transport bar into a "full wind-up roll" that was on a hoist, when one side fell from the hoist jarring him causing him to strain his back and right leg.

On November 7, 2024, the Respondents' case manager filed a Form AR-2, with the Commission accepting compensability of the claim for a compensable lower lumbar/back injury. The Respondents filed an amended Form AR-2 with the Commission on November 25, 2024, to correct the Claimant's correct average weekly wage. Contrariwise, the Respondents filed another Amended Form AR-2 with the Commission on December 9, 2024, controverting the claim stating, "We have medical evidence of pre-existing DDD and disc protrusion at L4-5."

As a result, the Claimant retained legal representation in this case. The Claimant's attorney requested a hearing on the merits of this claim. As a result, the hearing process was started by my office. Counsel for the Claimant filed a response to the Prehearing Questionnaire on February 4, 2025. Per the aforementioned responsive filing, the Claimant asserted that he sustained a compensable injury for which he was entitled to medical benefits, temporary total disability compensation and an attorney's fee. The Respondents' attorney filed a response on behalf of her client on or about February 4, 2025, restating their position of controverting the claim. I conducted a prehearing telephone conference with the parties on May 14, 2025. At that time, I scheduled a full hearing in this matter for July 8, 2025. Ultimately, the Claimant's attorney moved the hearing be canceled and the claim was returned to the Commission's general files, which was done.

Subsequently, on September 9, 2025, the Claimant attorney filed a motion to withdraw from representing the Claimant in this matter. On October 1, 2025, the Full Commission granted the Claimant's attorney's motion to withdraw as counsel of record in this case.

Subsequently, on February 20, 2025, the Claimant's attorney filed a motion to withdraw from representing the Claimant this claim. On March 20, 2025, the Full Commission entered an order granting the motion.

Since this time, the Claimant has not taken any action to pursue or otherwise resolve his claim. Most significantly, the Claimant has not requested a hearing subsequent to the last filing of a request for a hearing which was clearly done more than six (6) months ago.

Consequently, it appears that on or about October 31, 2025, the Respondents filed a Respondents' Motion to Dismiss with the Commission. The Respondents notified the Claimant of said motion per a certificate of service sent via the United States Postal Service.

Subsequently, on July 15, 2025, my office sent a letter-notice informing the Claimant of the Respondents' motion to dismiss, and a deadline of twenty (20) days for filing a written response. This letter was sent via both first-class and certified mail. The letter-notice sent by way of first-class mail has not been returned to the Commission.

Said dismissal hearing was scheduled for October 14, 2025, at 9:30 a.m., in Texarkana, Arkansas. This hearing notice was sent via first-class and certified mail.

My office mailed a notice to the Claimant notifying him of the Respondents' motion for dismissal of this claim. On November 14, 2025, the Claimant picked up the notice from the Postal Facility. The return receipt request bears the Claimant's signature.

On January 6, 2026, the Claimant's called the Commission's legal advisors' team to let them know that he does not wish to pursue his workers' compensation claim. The hearing notice

was sent to the Claimant via certified mail and first-class mail. The notice sent by regular mail has not been returned the Commission. However, the notice sent to the Claimant via certified mail was returned to Commission and it was mark unclaimed. Under these circumstances, I find that the Claimant received notice of the hearing as provided under the relevant law.

On January 25, 2026, my office sent a Notice of Hearing to the parties informing them that this claim was scheduled for January 13, 2026, at 10:00 a.m., in Texarkana Arkansas.

A hearing was in fact conducted on the Respondents' motion as scheduled. The Claimant did not appear for the hearing. However, the Respondents appeared through their attorney. The Respondents' counsel argued, among other things, that the Claimant has failed to timely prosecute his claim for workers' compensation benefits. Counsel further noted that the Claimant did not appear at the hearing to object to his claim being dismissed, and he has indicated that he does not wish to pursue his claim. As such, Counsel moved that this claim be dismissed for failure to prosecute under Ark. Code Ann. §11-9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)), *without prejudice*.

Adjudication

Therefore, the statutory provision and Arkansas Workers' Compensation Rule applicable in the Respondents' request for dismissal of this claim are outlined below:

Specifically, Ark. Code Ann. §11-9-702(a)(4) provides:

If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within the limitation periods specified in subdivisions (a)(1)-(3) of this section.

Also, Ark. Code Ann. §11-9-702(d) provides:

If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim

may, upon motion and after hearing, if necessary, be dismissed without prejudice to the refiling of the claim within the limitation period specified in subsection (b) of this section.

Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d), reads as follows:

The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.

In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.

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. (Effective March 1, 1982)

Although the Claimant did not file a formal claim by way of a Form AR-C, the Claimant's attorney filing of a written request for a hearing along with the filing of Claimant's response to the Prehearing Questionnaire is sufficient to constitute the filing of a claim for workers' compensation benefits.

A review of the evidence shows that the Claimant has had ample time to pursue his claim for workers' compensation benefits, but he has failed to do so. Specifically, the Claimant has not requested a hearing or otherwise made any effort to prosecute his claim since the filing of his claim more than six (6) months ago; and nor has he resisted the motion to dismiss his claim despite having received notice of the dismissal hearing. Thus, the evidence preponderates that the Claimant has clearly failed to prosecute this claim for workers' compensation benefits. For these reasons, and among other facts stated above, I am convinced that the Claimant has abandoned his claim.

Therefore, after consideration of the evidence before me, I find that the Respondents' motion to dismiss for a lack of prosecution to be well taken. I thus find that pursuant to Ark. Code Ann. §11-9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)), this claim for workers' compensation benefits is hereby respectfully dismissed *without prejudice* to the refiling of it within the limitation period specified under the Arkansas Workers' Compensation Act (referred to herein as the "Act").

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the record as a whole, 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 Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The Claimant's attorney previously filed a claim asserting his entitlement to workers' compensation benefits. Claimant has not requested a bona fide hearing in the last six (6) months, and he has notified the Commission that he does not wish to pursue this claim for workers' compensation benefits.
3. The Respondents filed with the Commission a motion for dismissal of this claim, for which a hearing was held.
4. Appropriate notice of the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.
5. The evidence preponderates that the Respondents' motion to dismiss this claim for lack of prosecution is well founded, and should be hereby granted, *without prejudice*, per Ark. Code Ann. §11-9-702, and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)) to the refiling of it within the limitation period specified by law.

ORDER

Based upon the foregoing findings, I have no alternative but to dismiss this claim for workers' compensation benefits. This dismissal is made pursuant to the provisions of Ark. Code

Ann. §11- 9-702, and Commission Rule 099.13(now codified at 11 C.A.R. § 25-110 (d)), *without prejudice* to the refiling of this claim within the limitation period specified under the Act.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge