

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H207274**

CAROLYN NORRIS, EMPLOYEE

CLAIMANT

**KAGOME INC.,
EMPLOYER**

RESPONDENT

**SOMPO AMERICA FIRE AND MARINE
INSURANCE COMPANY, CARRIER/
GALLAGHER BASSETT SERVICES, INC., TPA**

RESPONDENT

OPINION FILED JULY 7, 2025

Hearing before Administrative Law Judge Steven Porch on May 23, 2025 in Jonesboro, Craighead County, Arkansas.

Claimant was Pro Se, Osceola, Arkansas.

The Respondents were represented by Mr. Rick Behring, Jr., Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on February 28, 2025. A previous Motion to Dismiss hearing was conducted on September 22, 2023, in Jonesboro, Arkansas. That hearing was based on a Motion to Dismiss filed by Respondents on August 7, 2023. There the Claimant was represented by Ms. Laura Beth York, Attorney at Law. However, the Claimant herself nor her attorney were present at the hearing. Respondents were represented at that hearing by Mr. David C. Jones, Attorney at Law, of Little Rock, Arkansas. I have found during that hearing that the Claimant has failed to prosecute her claim and granted the dismissal without prejudice.

The Claimant soon filed a second Form AR-C through her then-attorney Laura Beth York on August 21, 2024, where she purportedly injured her low back, right elbow, and other whole body when she slipped on an oily food product on the floor. The Claimant requested initial and

additional benefits but did not request a hearing. The Claimant worked for the Respondent/Employer as a filler operator lead. The date for Claimant's alleged injury was on September 19, 2022. She reported her injury to Respondent/Employer on the same day. Respondents admitted into the record Respondents' Exhibit 1, pleadings, consisting of 14 pages. The Commission has admitted into evidence Commission Ex. 1, correspondence, and U.S. Mail return receipts, consisting of 6 pages, *as discussed infra*.

On November 7, 2024, Claimant's then-attorney, Laura Beth York, filed a Motion to Withdraw as Counsel. The Claimant did not object to the withdrawal, and the motion was granted by the Full Commission on November 22, 2024. On February 28, 2025, Respondents' counsel filed a Motion to Dismiss due to Claimant's failure to prosecute his claim. The Claimant was sent, on March 7, 2025, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to her last known address. The certified motion notice was not claimed by the Claimant as noted on the March 25, 2025, return receipt. However, the notice sent regular U.S. Mail, was not returned to the Commission. 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 April 14, 2025. The certified notice was not claimed, but the notice sent regular U.S. Mail did not return to the Commission. The hearing took place on March 23, 2025. 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 May 23, 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 not claimed by the Claimant; however, the hearing notice sent regular U.S. Mail did not return to the Commission. The Claimant is responsible for updating their address of record with the Commission. When a notice is sent to Claimant's last known address of record, as was the case

here, then reasonable notice was achieved. 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 her second Form AR-C on August 21, 2024. Since then, she has failed to request a bona fide hearing. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute her 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*.

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge