

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H305357**

**JON PAULOVICH,
EMPLOYEE**

CLAIMANT

**REYNOLDS MFG'ING, INC.,
EMPLOYER**

RESPONDENT

**INDEMNITY INS. CO. OF NORTH AMERICA/
SEDGWICK CLAIMS MG'T SERVICES, INC.
INSURANCE CARRIER/TPA**

RESPONDENT

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED JUNE 18, 2024**

Hearing conducted on Monday, June 18, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant is represented by the Honorable Aaron L. Martin, Martin Law Firm, Fayetteville, Washington County, Arkansas, who waived appearance at the hearing.

The respondents were represented by the Honorable Jason Ryburn, Ryburn Law Firm, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Tuesday, June 18, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Replacement).

The respondents filed a motion to dismiss without prejudice (MTD) with the Commission on April 29, 2024, requesting this claim be dismissed without prejudice for lack of prosecution. (Respondents' Exhibit 2). Consistent with the applicable Arkansas law, the Commission mailed a copy of both the respondents' MTD and the subject hearing notice to the claimant and his attorney via the United States Postal Service (USPS), Certified Mail, Return Receipt Requested. Thereafter,

the claimant's attorney advised the Commission via email the claimant had no objection to the MTD without prejudice, and waived appearance at the subject hearing.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2022 Lexis Repl.), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' MTD. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively demonstrates the claimant has both failed and/or refused to prosecute her claim, and she has failed and/or refused to request a hearing within the last six (6) months on her claim.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After the Commission mailed due and legal notice of the respondents' MTD and the subject hearing notice to the claimant and his attorney, the claimant's attorney advised the Commission via email the claimant did not object to the MTD without prejudice, and waived appearance at the hearing.
4. The claimant has failed to request a hearing either on the merits or on any issue related to his claim within the last six (6) months.
5. The respondents' MTD without prejudice filed with the Commission on April 29, 2024, should be and hereby is GRANTED.
6. Therefore, this claim hereby is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b), and

Commission Rule 099.13.

This opinion shall not be construed to prohibit the claimant, his attorney, any attorney he may retain in the future, or anyone acting legally and on his behalf from refiling this claim *if* the claim is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

The respondents shall pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp