

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G807146

CARL SMITH, EMPLOYEE

CLAIMANT

CITY OF LITTLE ROCK

RESPONDENT

**RISK MANAGEMENT RESOURCES,
INSURANCE CARRIER/TPA**

RESPONDENT

OPINION AND ORDER FILED NOVEMBER 4, 2025

The Hearing before Administrative Law Judge James D. Kennedy was held in Little Rock, Arkansas, on September 16th, 2025.

Claimant was pro se and failed to appear at the time of the hearing, but did in fact arrive at the Commission, approximately two hours after the notified start time for the hearing.

Respondents were represented by Melissa Wood, of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on the 16th day of September, 2025, in Little Rock, Arkansas, on Respondent's Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. 11-9-702 and 11 C.A.R. 25 – 110(d) of the rules of the Arkansas Workers' Compensation, formally known as Rule 099.13. The Claimant was pro-se and failed to appear at the time of the hearing, but did appear at the Commission approximately two hours after the notified start time for the hearing. The Respondents were represented by Melissa Wood of Little Rock, Arkansas, who introduced 9 pages of documents which were admitted into the evidentiary record. Upon the Claimants appearance at the Commission approximately two hours late, he was instructed to talk to the Legal Advisors Division of the Commission. A copy of an email from the Legal Advisors, which is "Blue Backed" and made part of this Opinion, provides that the

Claimant contended he wished to pursue his claim. An additional email from the Claimant dated September 17, 2025, is also “Blue Backed” and made part of this Opinion. This email from the Claimant contends that the hearing was originally set for Tuesday, August 12, 2025, at 1:30 p.m. It went on to contend that “Following my surgery on September 10, I reached out to opposing counsel, Ms. Melissa Wood, to confirm the rescheduled date. Ms. Wood replied by email on September 10, 2025, stating the hearing would be on Tuesday, September 16, 2025. However, no time was provided in that correspondence. “Since the prior notice had listed 1:30 p.m. and the new date fell on a Tuesday, I reasonably assumed the hearing would be at the same time.” The Claimant went on to state that he appeared at 1:00 p.m. “prepared to proceed” and at this point was informed that the hearing had occurred at 11:00 pm.

It is also noted that a previous Motion to Dismiss Hearing was held on November 9, 2021, when the Claimant also failed to appear. An Opinion was issued in regard to this previous Motion to Dismiss on December 5, 2021, where it was found that there was no alternative but to grant the Motion to Dismiss without Prejudice. The previous Motion to Dismiss Opinion is also “Blue Backed” and made part of this Opinion.

At the time of the second Motion to Dismiss Hearing on September 16, 2025, the Respondents entered nine pages of documents with index into the record. The documents included a Form C dated October 23, 2018, that provided the Claimant was fighting a fire when the ceiling collapsed, resulting in the Claimant injuring his neck and knee on October 28, 2016. A First Report of Injury, provided that the date of the injury was January 26, 2023. A Form 2 dated October 26, 2018, provided that the claim was a medical only claim. A Form C filed December 13, 2023, provided that the Claimant was

performing firefighter operations and the ceiling collapsed on him. The documents entered into the record also included a letter from the Medical Cost Containment Division of the Arkansas Workers' Compensation Commission, dated September 16, 2024, which provided that the Claimant had already exercised his right to a one-time change of physician on January 8, 2019, with Dr. Mark Miedema, that they were aware that Dr. Miedema had relocated to Northwest Arkansas, and that the Claimant had been referred to his colleague Dr. Stephen Paulus, where the Claimant continued treatment until December 12, 2023. The letter went on to provide that although the Claimant was not entitled to an additional change of physician, **he could in fact request a hearing for additional medical care.** (Emphasis added) A second Motion to Dismiss for Failure to Prosecute was filed on June 17, 2025, and an appropriate notice to respond to the Motion to Dismiss was mailed to the Claimant on June 19, 2025, where the Claimant failed to respond. An appropriate notice of hearing was provided to the Claimant on July 15, 2025, providing Notice of a Hearing in Little Rock, Arkansas on September 16, 2025, at 11:00 a.m. and at the time for that hearing, the claimant failed to appear. The Respondents were represented by Melissa Wood, who requested that the matter be dismissed pursuant to Ark. Code Ann. 11- 9-702 and 11 C.A.R. 25-110(d) of the Arkansas Workers' Compensation Commission.

ORDER

The Opinion in regard to this matter was delayed in being issued in an attempt to provide additional time for the Claimant to take some additional action, but in reviewing the filings in an attempt to "Blue Back" additional documents that might be appropriate in regard to the outcome of this matter, the only pertinent documents applicable and

available appear to be the ones described above. It is clear the Claimant was serving the people of Little Rock as a fire fighter, an extremely honorable profession. However, it is also clear that the Claimant has the burden of proof in regard to pursuing his claim. Pursuant to the above statement of the case, as well as the documents entered into the evidentiary record, statements by the Attorney for the Respondents, and the “Blue Backed” documents, there is no alternative but to grant the Motion to Dismiss without prejudice pursuant to 11 CAR 25-110(d) of the Arkansas Workers’ Compensation Commission and Ark. Code Ann. 11-9-702.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE