

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC FILE № H403261**

TELIA D. SMITH, EMPLOYEE	CLAIMANT
AMAZON.COM SERVICES, LLC, EMPLOYER	RESPONDENT
AMERICAN ZURICH INS. CO./ SEDGEWICK CLAIMS MANAGEMENT, CARRIER/TPA	RESPONDENT

OPINION FILED 18 APRIL 2025

Heard before Arkansas Workers' Compensation Commission ("the Commission")
Administrative Law Judge JayO. Howe on 26 March 2025 in Pine Bluff, Arkansas.

The *pro se* claimant failed to appear.

Newkirk & Jones, Mr. David C. Jones, appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Pine Bluff, Arkansas, on 26 March 2025. This case relates to an alleged workplace injury occurring on 6 March 2024. The respondents introduced, and I admitted to the record as Respondents' Exhibit № 1, forty pages of forms, correspondence, and filings in support of their motion. Additionally, I admitted to the record as Commission's Exhibit № 1 six pages of correspondence and related materials.

The claimant, though counsel, filed a Form AR-C on 18 May 2024. The claimant's counsel later sought to withdraw from this matter; and the Full Commission approved that request by way of an Order dated 22 November 2024. On 23 January 2025, the respondents filed the immediate motion seeking a dismissal of the claim. Their motion cites Ark. Code Ann. § 11-9-702(a)(4) & (d) (Repl. 2012) and Commission Rule 099.13 ("Rule 13") as grounds for a dismissal.

Notice of the respondents' motion was sent to the claimant, consistent with Commission practices, via First Class Mail and Certified Mail, on 24 January 2025 to the address provided on the AR-C. After no response or objection was received by my office, a notice of a hearing on that motion was sent in the same fashion on 24 February 2025. When mailings are returned to the Commission as not accepted or undeliverable, those mailings are appended to the claim's file. This file contains "unclaimed" returns of the notice letters sent via Certified Mail. No other mailings were returned as unaccepted or undeliverable. *See* Commission's Exhibit № 1.

FINDINDGS OF FACT AND CONCLUSIONS OF LAW

After reviewing 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 Commission has jurisdiction over this matter.
2. The parties were provided with reasonable notice of the Motion to Dismiss and the hearing on that motion.
3. The evidence preponderates that the claimant has failed to prosecute her claim under Rule 13.
4. The Motion to Dismiss is hereby granted; this claim for additional benefits is dismissed without prejudice under Rule 13.

DISCUSSION

The respondents appeared on 10 April 2025 and presented their motion. As argued by the respondents at the hearing, our Rule 13 provides for a dismissal for failure to prosecute an action upon application by either party and reasonable notice. The claimant did not file a response to the motion or appear at the hearing to argue against the dismissal of her claim. The last action taken on behalf of the claimant appears to be her counsel's request for to withdraw from the matter on 14 November 2024. A dismissal without

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prejudice is, therefore, appropriate. Because of this finding, the arguments made under Ark. Code Ann. § 11-9-702 will not be addressed.

ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE