

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**WCC NO. H303029**

**TRENTON SWAN, Employee**

**CLAIMANT**

**ABM INDUSTRIES, INC., Employer**

**RESPONDENT**

**INDEMNITY INS. CO. OF NORTH AMERICA Carrier/TPA**

**RESPONDENT**

**OPINION FILED SEPTEMBER 27, 2024**

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Russellville, Pope County, Arkansas.

Claimant not represented by counsel and not appearing at hearing.

Respondent represented by ERIC NEWKIRK, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

This case comes on for review following a hearing on respondents' Motion to Dismiss.

On May 10, 2023, the claimant's attorney, Mark Peoples, filed an AR-C requesting various compensation benefits in which he alleged injuries to his neck, back and head on or about May 8, 2023. The claim was accepted as compensable, and all related benefits were paid.

On September 6, 2023, Mr. Peoples filed a Motion to Withdraw as Counsel, which the Full Commission granted on September 13, 2024. No further action was taken regarding this claim.

On April 12, 2024, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for September 12, 2024. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on June 4, 2024. United States Postal Department records indicate that claimant received and signed for the notice

on June 15, 2024. Despite having received notice of the scheduled hearing, the claimant failed to appear at the hearing and has failed to respond to the motion in any form or manner.

After my review of the respondents' Motion to Dismiss, the claimant's lack of response thereto, and all other matters properly before the Commission, I find that respondents' Motion to Dismiss this claim should be and hereby is granted pursuant to Commission Rule 099.13. This dismissal is without prejudice.

**ORDER**

Pursuant to the above statement of the case and Commission Rule 099.13, I have no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

If respondents have not already done so, they are directed to pay the court reporter, Veronica Lane, her fees and expenses within thirty (30) days of receipt of her invoice.

**IT IS SO ORDERED.**

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**ERIC PAUL WELLS  
ADMINISTRATIVE LAW JUDGE**