

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H303532**

**JOHNNY SEGRAVES,
EMPLOYEE**

CLAIMANT

**HYTROL CONVEYOR CO. INC.,
SELF-INSURED EMPLOYER**

RESPONDENT

**CCMSI,
TPA**

RESPONDENT

OPINION FILED JUNE 2, 2025

Hearing conducted on Friday, April 25, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Jonesboro, Craighead County, Arkansas.

The Claimant, Mr. Johnny Segraves, *Pro Se*, of Walnut Ridge, Arkansas.

The Respondents were represented by Mr. S. Shane Baker, Attorney at Law, Jonesboro, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on December 31, 2024. A hearing on the motion was conducted on April 25, 2025, in Jonesboro, Arkansas. Claimant, according to Commission file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a Const/Agriculture Machine worker. The date for Claimant's alleged injury was on May 23, 2023. He reported his injury to Respondent/Employer on the same day. Respondents admitted into the record Respondents' Exhibit 1, Order of Withdrawal, consisting of 2 pages, Respondents' Exhibit 2, Entry of Appearance, consisting of 2 pages, Respondents' Exhibit 3, Motion to Dismiss, consisting of 3 pages, and Respondents' Exhibit 4, email from claimant, consisting of 1 page. The Commission

admitted into evidence Commission Ex. 1, pleadings, correspondence, and U.S. Mail return receipts, consisting of 8 pages, *as discussed infra*.

The record reflects that on June 1, 2023, a Form AR-1 was filed with the Commission purporting that Claimant's disability began May 24, 2023. Also on June 1, 2023, a Form AR-2 was filed by Respondents accepting compensability. On June 11, 2024, Form AR-C was filed by Claimant's then-attorney, Mark Peoples, with the Commission purporting that Claimant injured his hip, and as a compensable consequence of his alleged hip injury he has developed back problems. Claimant's counsel, Mark Peoples, filed a Motion to Withdraw on July 9, 2024. The Full Commission granted the motion on August 7, 2024.

On December 19, 2024, Respondents' counsel filed a Motion to Dismiss due to Claimant's failure to prosecute his claim. The Claimant was sent, on December 27, 2024, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to his last known address. The certified motion notice was claimed by Claimant as noted on the January 3, 2025, return receipt. The Claimant did respond to the motion in an email dated January 23, 2025. There the Claimant asked the Commission to "dismiss any action to pursue a claim against Hytrol Conveyor Co." 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 February 21, 2025. The certified notice was claimed on February 26, 2025, return notice. The hearing took place on April 25, 2025. And as mentioned before, 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 April 25, 2025, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to make a bona fide request for a hearing in more than six months pursuant to **Ark. Code Ann. § 11-9-702(a)(4)**.
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

Under **Ark. Code Ann. § 11-9-702(a)(4)** "If within six (6) months after the filing of a claim for compensation no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice...". Consistent with **Ark. Code Ann. § 11-9-702(a)(4)**, the Commission scheduled and conducted a hearing, with reasonable notice to the Claimant, on Respondents' Motion to Dismiss hearing date. The certified hearing notice was claimed on February 26, 2025, per the return postal notice bearing the same date. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

Ark. Code Ann. § 11-9-702(a)(4) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of a bona fide request for a hearing within six months. The Claimant filed his Form AR-C on June 11, 2024. Since then, he has failed to request

a bona fide hearing. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute his claim by failing to request a bona fide hearing within six months. 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