

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H506399**

MARK A. SPEAKS, EMPLOYEE

CLAIMANT

**CRAIN CHEVROLET OLDS, INC.,
SELF-INSURED EMPLOYER**

RESPONDENT

**RISK MGMT. SOLUTIONS,
CARRIER**

RESPONDENT

OPINION FILED JUNE 12, 2026

Hearing before Administrative Law Judge O. Milton Fine II on June 11, 2026, in Little Rock, Pulaski County, Arkansas.

Claimant, *pro se*, not appearing.

Respondents represented by Ms. Carol Lockard Worley, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a motion to dismiss by Respondents. A hearing on the motion was conducted on June 11, 2026, in Little Rock, Pulaski County, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing. Admitted into evidence were Commission's Exhibit 1, records from the United States Postal Service, consisting of two pages; and Respondents' Exhibit 1, pleadings, correspondence and forms related to this claim, consisting of one index page and seven numbered pages thereafter. See Ark. Code Ann. § 11-9-705(a)(1) (Repl. 2012)(Commission must "conduct the hearing . . . in a manner which best ascertains the rights of the parties").

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The record reflects the following procedural history: Claimant filed a Form AR-C on October 6, 2025. Therein, he requested initial benefits in the form of medical expenses and temporary total disability, and alleged that he sustained a compensable injury in the form of carpal tunnel syndrome. On October 21, 2025, Respondents stated that the claim was “denied pending further investigation.”

The record reflects that no further action was taken on this case until April 6, 2026. On that date, Respondents’ counsel entered her appearance and filed the instant Motion to Dismiss under 11 C.A.R. § 25-110(d)) and Ark. Code Ann. § 11-9-702 (Repl. 2012), asking for dismissal of the claim because Claimant “has not sought any type of bona fide hearing before the Workers’ Compensation Commission over the last six months.” The file was assigned to me on April 7, 2026. My office wrote Claimant that same day, asking for a response to the motion within twenty (20) days. The correspondence was sent by certified and first-class mail to the Mabelvale, Arkansas address for Claimant listed in the file and on his Form AR-C. The certified letter was claimed on April 9, 2026, by someone with an illegible signature, and the first-class letter was not returned. Regardless, no response to the motion was forthcoming. On April 28, 2026, a hearing on the Motion to Dismiss was scheduled for June 11, 2026, at 12:30 p.m. at the Commission in Little Rock. The certified mailing of the Notice of Hearing to Claimant was claimed by Claimant on April 30, 2026; and as before, the first-class mailing of the same document was not returned.

The hearing on the Motion to Dismiss proceeded as scheduled. Again, Claimant failed to appear at the hearing. But Respondents appeared through counsel and argued for dismissal under aforementioned authorities.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following findings of fact and conclusions of law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.
3. The evidence preponderates that Claimant has failed to prosecute his claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted; this claim is hereby dismissed without prejudice under 11 C.A.R. § 25-110(d).

III. DISCUSSION

11 C.A.R. § 25-110(d) reads:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

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See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the instant claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

11 C.A.R. § 25-110(d) (formerly AWCC R. 099.13) reads:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

As shown by the evidence recounted above, (1) the parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon; and (2) Claimant has failed to pursue his claim because he has taken no steps to pursue it (including

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appearing at the June 11, 2026, hearing to argue against its dismissal) since the filing of his Form AR-C on October 6, 2025. Thus, the evidence preponderates that dismissal of the claim is warranted under 11 C.A.R. § 25-110(d). Because of this finding, the applicability of § 11-9-702 is moot and will not be addressed.

That leaves the question of whether the dismissal of the claim should be with or without prejudice. The Commission possesses the authority to dismiss claims with prejudice. *Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App. 137, 744 S.W.2d 402 (1988). The Commission and the appellate courts have expressed a preference for dismissals without prejudice. *See Professional Adjustment Bureau v. Strong*, 75 Ark. 249, 629 S.W.2d 284 (1982)). Respondents at the hearing asked for a dismissal without prejudice. Based on the foregoing, I agree and find that the dismissal of this claim should be and hereby is entered *without prejudice*.¹

IV. CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim is hereby dismissed *without prejudice*.

IT IS SO ORDERED.

O. MILTON FINE II
Chief Administrative Law Judge

¹“A dismissal ‘without prejudice’ allows a new [claim] to be brought on the same cause of action.” BLACK’S LAW DICTIONARY 825 (abridged 5th ed. 1983).