

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H403871**

TIMOTHY YOUNG,
EMPLOYEE **CLAIMANT**

DITTA ENTERPRISES, INC.,
EMPLOYER **RESPONDENT**

BRIDGEFIELD CASUALTY INS. CO.,
INSURANCE CARRIER **RESPONDENT**

SUMMIT CONSULTING, LLC,
TPA **RESPONDENT**

OPINION FILED JUNE 24, 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. Timothy Young, *Pro Se*, of Walnut Ridge, Arkansas.

The Respondents were represented by Mr. Michael Ryburn, Attorney at Law, Little Rock, 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 an associate. The date for Claimant's alleged injury was on February 15, 2023. He reported his injury to Respondent/Employer on the same day. Respondents admitted into the record Respondents' Exhibit 1, Form AR-C and motion to dismiss, consisting of 2 pages. The Commission has admitted

into evidence Commission Ex. 1, correspondence, and U.S. Mail return receipts, consisting of 6 pages, *as discussed infra*.

The record reflects that on June 16, 2024, a Form AR-C was filed by Claimant's then-attorney, Mark Peoples, with the Commission purporting that Claimant injured his right shoulder, and arm in a work incident. On June 21, 2024, a Form AR-1 was filed with the Commission purporting that Claimant's disability began February 15, 2023. Also on June 21, 2024, a Form AR-2 was filed by Respondents denying compensability. On June 24, 2024, the Ryburn Law Firm entered its entry of appearance on the behalf of the Respondents. Claimant's counsel, Mark Peoples, filed a Motion to Withdraw on September 30, 2024. The Full Commission granted the motion on October 18, 2024.

On December 31, 2024, Respondents' counsel filed a Motion to Dismiss due to Claimant's failure to prosecute his claim. The Claimant was sent, on January 3, 2025, 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 14, 2025, return receipt. Nevertheless, the Claimant did not respond to the Motion, in writing, as required. 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 January 31, 2025. The certified notice was claimed on February 15, 2025, return receipt.

The Motion to Dismiss Hearing had to be rescheduled to April 25, 2025. 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 24, 2025, return receipt. The hearing took place on April 25, 2025. 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 prosecute his claim under AWCC Rule 099.13.
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

AWCC 099.13 provides:

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).

Consistent with AWCC Rule 099.13, the Commission scheduled and conducted a hearing, with reasonable notice to the Claimant, on the Respondents' Motion to Dismiss hearing date. The certified hearing notice was claimed on February 24, 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.

AWCC Rule 099.13 allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed his Form AR-C on June 16, 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 hearing. 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