

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 The Circle, Suite 2
GEORGETOWN, DE 19947

November 8, 2011

Chrystle D. Beeman
21552 Paradise Rd.
Georgetown, De 19947

**RE: Chrystle D. Beeman v. Unemployment Insurance Appeal Board
C.A. No. S10A-11-001 - ESB
Letter Opinion**

Date Submitted: August 4, 2011

Dear Ms. Beeman:

This is my decision on your appeal of the Unemployment Insurance Appeal Board's finding that you are liable for the overpayment of unemployment benefits that you received. You worked as a secretary for a home builder. When your hours were reduced, you filed a claim for unemployment benefits on July 4, 2010. You collected unemployment benefits totaling \$228.00 for two weeks. Your employer then disputed your claim for unemployment benefits, arguing that he did not guarantee you 35 hours per week of work. The unemployment office notified you of your employer's action and told you that a decision would be made on the dispute. The Claims Deputy found that you were ineligible for unemployment benefits in a decision dated July 23, 2010. You did not file an appeal of the Claims Deputy's decision with the Appeals Referee. Thus, the Claims Deputy's decision became final on August 2, 2010. The Claims Deputy then decided that you had received an overpayment of benefits totaling \$228.00. You filed a timely appeal of the Claims Deputy's decision with the Appeals Referee, who affirmed the Claims Deputy's decision.

You then filed an appeal of the Appeals Referee's decision with the Board. The Board affirmed the Appeals Referee's decision, reasoning that the prior determination that you were ineligible for unemployment benefits had become final and there was no evidence of error on the part of the Department of Labor that might have delayed your appeal of that determination. You now have filed an appeal to this Court, arguing that you can prove that you were hired as a full-time employee and are eligible for unemployment benefits.

STANDARD OF REVIEW

The Supreme Court and this Court repeatedly have emphasized the limited appellate review of the factual findings of an administrative agency. The Court must determine whether the Board's findings and conclusions are free from legal error and supported by substantial evidence in the record.¹ Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.² The appellate court does not weigh the evidence, determine questions of credibility, or make its own factual findings.³ It merely determines if the evidence is legally adequate to support the agency's factual findings.⁴ Absent an error of law, the Board's decision will not be disturbed where there is substantial evidence to support its conclusions.⁵

¹ *Unemployment Insurance Appeal Board v. Martin*, 431 A.2d 1265, 1266 (Del. 1981).

² *Oceanport Ind. v. Wilmington Stevedores*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del.1986), *app. disp.*, 515 A.2d 397 (Del. 1986)(TABLE).

³ *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

⁴ 29 *Del.C.* § 10142(d).

⁵ *Dallachiesa v. General Motors Corp.*, 140 A.2d 137 (Del. Super. 1958).

DISCUSSION

You argue that you can prove that you were hired as a full-time employee and are eligible for unemployment benefits. Unfortunately, the time for consideration of this argument has passed. The Claims Deputy's decision that you were ineligible for unemployment benefits is final and binding on you because you did not file an appeal of it.⁶ "Where the lateness of the appeal is due to the claimant's unintentional or accidental actions, and not due to an administrative error, the Claims Deputy's determination will become final and § 3318(b) will jurisdictionally bar the claim from further appeal."⁷ You argue that you did not file an appeal because you did not get the Claims Deputy's decision in the mail. You argue further that you were in the process of moving when it came out and apparently did not get all of your mail. The Claims Deputy's decision on your eligibility was sent to the address you provided to the Department of Labor when you filed your claim for unemployment benefits. A letter that is correctly addressed and stamped is presumed to be received by the addressee.⁸ It was your responsibility to notify the Department of Labor of your new address and to have your mail forwarded to you at your new address.

Thus, the issue before the Board and the Court is whether you received an overpayment of benefits. The issue is not whether you were eligible for unemployment benefits. It has already been determined that you were ineligible for unemployment benefits. 19 *Del.C.* § 3325 provides as follows:

⁶ 19 *Del.C.* § 3318(b).

⁷ *Hartman v. Unemployment Insurance Appeal Board*, 2004 WL 772067, at *2 (Del. Super. April 5, 2004).

⁸ *Lively v. Dover Wipes*, 2003 WL 21213415 (Del. Super. May 16, 2003).

“Any person who has received any sum as benefits under this chapter to which it is finally determined that the person was not entitled shall be liable to repay in cash said overpayment, to the Department for the Unemployment Compensation Fund, or to have such sum deducted from future benefits payable to the person under this chapter. The person shall be so liable regardless of whether such sum was received through fraud or mistake, or whether that person was legally awarded the payment of benefits at the time but on appeal was subsequently found not to be entitled thereto.”

Since you were ineligible for unemployment benefits, it is clear that you have to repay all of the benefits that you received. The Board found no evidence of error on the part of the Department of Labor in the mailing to you of the Claims Deputy’s decision on your eligibility for unemployment benefits. The Board’s finding that you did not file a timely appeal of the Claims Deputy’s decision on eligibility and that you must repay the overpayment of benefits that you received is based upon substantial evidence in the record in and is accordance with the applicable law.

CONCLUSION

The decision of the Unemployment Insurance Appeal Board is **AFFIRMED**.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

oc: Prothonotary’s Office
cc: Unemployment Insurance Appeal Board