

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

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

December 22, 2011

Chenevera Felix
21024 Palmateer Lane
Georgetown, DE 19947

**RE: Chenevera Felix v. Unemployment Insurance Appeal Board
C.A. No. S11A-05-003-ESB
Letter Opinion**

Date Submitted: November 14, 2011

Dear Ms. Felix:

This is my decision on your appeal of the Unemployment Insurance Appeal Board's finding that must pay back the unemployment benefits that you improperly received. You filed a claim for unemployment benefits on September 13, 2009. You received unemployment benefits beginning on or around November 1, 2009, to October 23, 2010. Your unemployment benefits were terminated when a Claims Deputy, in a decision dated November 24, 2010, found that you were ineligible for unemployment benefits because you had voluntarily left your employment without good cause. You did not file a timely appeal of the Claims Deputy's decision with the Appeals Referee. Thus, the Claims Deputy's decision became final on December 4, 2010. You did file an untimely appeal on December 20, 2010. The Appeals Referee agreed to hear your appeal solely on the issue of timeliness and scheduled a hearing for January 24, 2011. However, your appeal went no further because you did not appear at the hearing. The Appeals Referee, in a decision dated January 24,

2011, held that the Claims Deputy's decision was final and binding on you. The Claims Deputy then ruled that you had received an overpayment of unemployment benefits totaling \$18,105.00. 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 a timely 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 that there was no evidence of error on the part of the Department of Labor that might have delayed your appeal of that determination. You then filed an appeal with this Court, arguing that you were entitled to unemployment benefits because your employer lied about you voluntarily quitting your job.

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

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).

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

DISCUSSION

You argue that you are eligible for unemployment benefits because your employer lied when it told the Claims Deputy that you had voluntarily quit your job. Unfortunately, the time for consideration of your argument by either the Board or this Court has passed. The Claims Deputy's finding that you were ineligible for unemployment benefits is final and binding on you because you did not file a timely 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 in time because you were unable to check your post office box due to a lack of transportation. 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 check your post office box in a timely fashion. Your failure to check your post office box was not an administrative error on the part of the Department of Labor but

⁴ 29 *Del.C.* § 10142(d).

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

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).

a conscious decision on your part.

Thus, the issue that was before the Board and is now before this 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:

“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, the law is clear that you have to repay all of the benefits that you received. 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 in accordance with the applicable law and supported by substantial evidence in the record.

CONCLUSION

The Unemployment Insurance Appeal Board’s decision is **AFFIRMED**.

IT IS SO ORDERED.

Very truly yours,

/S/ E. Scott Bradley

E. Scott Bradley

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