

Third District Court of Appeal

State of Florida, January Term, A.D. 2011

Opinion filed April 20, 2011.
Not final until disposition of timely filed motion for rehearing.

No. 3D10-2319
Lower Tribunal No. 10-11740

Julio Ramos,
Appellant,

vs.

Unemployment Appeals Commission, et al.,
Appellees.

An Appeal from the State of Florida, Unemployment Appeals Commission.

Wasson & Associates and Annabel C. Majewski, for appellant.

Louis A. Gutierrez (Tallahassee), for appellee, Unemployment Appeals Commission.

Before GERSTEN, WELLS, and SALTER, JJ.

PER CURIAM.

Julio Ramos (“the claimant”) appeals the Florida Unemployment Appeals Commission’s (“the UAC”) final order dismissing his case as untimely. We reverse.

On appeal, the claimant asserts that the UAC erred in dismissing the appeal because it was timely filed. The UAC contends that the UAC properly dismissed the appeal as untimely because it was received after the twenty-day time period allowed for the appeal. We agree with the claimant and reverse.

An appeal of a UAC order must be filed within twenty calendar days of the date the determination or redetermination of benefits was mailed to the appellant. See Fla. Admin. Code R. 60BB-5.005(1). This appeal may be filed by mail, fax, or hand delivery. See Fla. Admin. Code R. 60BB-5.004. However, a party is deemed to assume the risk of transmission difficulties associated with faxes. See Reynolds v. SV Cent. Dania Props., 849 So. 2d 1181, 1182 (Fla. 4th DCA 2003).

Here, the record contains a fax transmission report documenting the successful transmission of the claimant's notice of appeal to an approved UAC location within the twenty-day time period. Therefore, the claimant satisfied the timeliness requirements of Rule 60BB-5.004, and the UAC erred in dismissing the appeal as untimely.

Accordingly, we reverse the dismissal order and remand for a review of the merits of the claimant's appeal.

Reversed and remanded.