



local service center mailed Claimant a Notice of Financial Determination (2008 Notice) stating that Claimant was financially eligible for benefits. (O.R., Item No. 2.) Claimant's base year, upon which his benefits were based, ran from the fourth quarter of 2006 through the third quarter of 2007. (UCBR's Findings of Fact, No. 4.) According to the 2008 Notice, Claimant earned a total of \$60,018 during his base year: \$4,772 in the fourth quarter of 2006; \$49,476 in the first quarter of 2007; \$4,958 in the second quarter of 2007; and \$908 in the third quarter of 2007. (UCBR's Findings of Fact, Nos. 5-6.)

In March of 2009, after exhausting his regular unemployment compensation benefits, Claimant made a claim for EUC benefits. (UCBR's Findings of Fact, Nos. 2-3.) On March 3, 2009, the service center mailed Claimant a Notice of Financial Determination (2009 Notice) stating that Claimant was not financially eligible for EUC benefits because Claimant had insufficient wages during his base year to qualify. (O.R., Item No. 2.)

Claimant filed an appeal from this determination, alleging that the wages recorded in the 2008 Notice were incorrect and that, according to his own records, he did qualify for EUC benefits. (O.R., Item No. 2.) The matter was assigned to a referee for an April 2, 2009, hearing, (O.R., Item No. 4); however, at the hearing, the referee noted for the record that Claimant did not appear, that copies of Claimant's hearing notice were not returned by the postal authorities as undeliverable and that Claimant had not explained his absence or requested a continuance. Thus, the referee based his decision on the documents provided by the service center, which included the 2008 and 2009 Notices. (O.R., Item No. 5.)

The referee affirmed the job center's determination that Claimant was not financially eligible for EUC benefits, explaining that, in order for a claimant to be found eligible to receive EUC benefits, the total wages in the claimant's base year must equal or exceed one and a half times the wages in the highest quarter of the claimant's base year.<sup>3</sup> Because Claimant's highest quarterly wage was \$49,476, Claimant total base year earnings of \$60,018 fell short of the \$74,214 required to qualify him for EUC benefits. (O.R., Item No. 6.)

Claimant appealed to the UCBR, alleging that he never received notice of the referee's hearing and requesting a remand hearing so that he would have the opportunity to present evidence regarding his 2007 earnings. (O.R., Item Nos. 7-8.) By order dated May 29, 2009, the UCBR denied Claimant's request for a remand. In doing so, the UCBR stated, "[t]he record establishes that the Referee's notice of hearing was mailed to the claimant at his last known address. Therefore, there is a presumption of receipt. The claimant's denial that he received the hearing notice alone is insufficient to overcome the presumption." (UCBR op., O.R., Item No. 9.) Accordingly, the UCBR affirmed the decision of the referee, adopting and incorporating his findings and conclusions. (*Id.*) The UCBR denied Claimant's

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<sup>3</sup> Section 403-A(i) of the Law provides:

Notwithstanding subsection (a)(2) an individual shall not be eligible for extended benefits unless, in the base year with respect to which the individual exhausted all rights to regular benefits under the State law, the individual had wages equal to at least one and one-half (1 ½) times the individual's highest quarterly wage.

43 P.S. §813(i).

subsequent request for reconsideration, (O.R., Item Nos. 10-12), and Claimant now petitions this court for review.<sup>4</sup>

Claimant argues that the 2008 Notice is incorrect and that he was paid the qualifying amount of wages to be eligible for EUC benefits. He contends that he has documentation to prove this claim but was unable to present the evidence to the referee because he never received notice of the hearing.

However, the copy of the hearing notice, included in the record before the referee, indicates on its face that it was mailed to Claimant at his correct address on March 19, 2009. Because the hearing notice was not returned by postal authorities as undeliverable, neither the referee nor the UCBR erred in presuming that Claimant received the hearing notice. *Dull v. Unemployment Compensation Board of Review*, 955 A.2d 1077 (Pa. Cmwlth. 2008) (holding that, if there is evidence in the record that the determination of the unemployment compensation authorities was mailed to the claimant's last known address, and was not returned as undeliverable, then there is a presumption of the regularity of administrative acts of public officials which the referee may invoke in reaching a determination that the claimant did have proper notice). Moreover, the UCBR has broad discretion in deciding whether to grant a remand hearing, *Clowney v. Unemployment Compensation Board of Review*, 421 A.2d 515 (Pa. Cmwlth. 1980), and we cannot conclude that the UCBR abused that

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<sup>4</sup> Our scope of review is limited to determining whether constitutional rights were violated, whether the adjudication is in accordance with law or whether the necessary findings of fact are supported by substantial evidence. Section 704 of the Administrative Agency Law, 2 Pa. C.S. §704.

discretion by determining that Claimant's mere denial of notice failed to establish good cause to support the grant of his remand request.

Accordingly, we affirm.

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ROCHELLE S. FRIEDMAN, Senior Judge

