

On January 10, 2010, Claimant filed an application for unemployment compensation benefits with the Department. On January 28, 2010, TALX faxed a letter to the Department stating that TALX is Employer's representative and that all correspondence relating to Claimant's application should be mailed to "P.O. Box 182366, Columbus, Ohio 43218-2366." (UCBR's Findings of Fact, No. 9.)

On February 12, 2010, the Department issued a decision awarding benefits to Claimant. On the same date, the Department mailed a copy of its notice of determination to Employer, in care of TALX, at the address provided in the January 28, 2010, letter. (UCBR's Findings of Fact, Nos. 2, 10.) The notice informed Employer that March 1, 2010, was the last date on which it could file an appeal. (UCBR's Findings of Fact, No. 4.) Employer filed its appeal by facsimile on March 11, 2010. (UCBR's Findings of Fact, No. 5.)

Following an evidentiary hearing at which Claimant and Employer testified, the referee determined that Employer's appeal was untimely filed.² The referee found that the Department mailed its notice of determination to Employer's last known post office address and that the notice was not returned by the postal authorities as undeliverable. Therefore, because Employer filed its appeal ten days late, the referee dismissed the appeal. Employer timely appealed to the UCBR, which affirmed. Employer now petitions for review of that decision.³

² The referee did not consider the merits of Employer's appeal at the hearing.

³ Our scope of review is limited to determining whether constitutional rights were violated, an error of law was committed, or findings of fact were unsupported by substantial evidence. Section 704 of the Administrative Agency Law, 2 Pa. C.S. §704.

The issue on appeal is whether the UCBR correctly determined that the Department mailed its notice of determination to Employer's "last known post office address" under section 501(e) of the Law. We conclude that it did.

The Law's fifteen-day appeal provision is mandatory and subject to strict application. *Renda v. Unemployment Compensation Board of Review*, 837 A.2d 685, 695 (Pa. Cmwlth. 2003). A party's failure to file an appeal within fifteen days, absent an adequate excuse for the late filing, ordinarily requires dismissal of the appeal. *United States Postal Service v. Unemployment Compensation Board of Review*, 620 A.2d 572, 606 (Pa. Cmwlth. 1993). However, an appellant's showing of fraud or a breakdown in the administrative process may justify an appeal *nunc pro tunc*. *Id.*

Here, Employer admitted at the hearing that TALX was its duly authorized representative at the time the notice of determination was mailed. (N.T., 4/5/10, at 8; *see also* Employer's Brief at 7.) Moreover, after being notified of Claimant's filing of an application for benefits, TALX mailed a letter to the Department, which stated:

Be advised, TALX UC eXpress is a duly authorized agent empowered to act on behalf of the above employer. **The determination, or any related correspondence, should be mailed to: P.O. Box 182366, Columbus, OH 43218-2366.**

(Letter from TALX to Department, 1/28/10 (emphasis added).)⁴ Based on this undisputed evidence, the UCBR correctly concluded that the Department mailed its determination to Employer at the last known post office address **provided by Employer** through its duly authorized representative. *See, e.g., United States Postal Service*, 620 A.2d at 606-07 (reversing UCBR’s order and remanding for hearing on merits of employer’s appeal, where referee’s decision was not mailed to employer’s last known address, which was provided by employer’s representative at commencement of hearing).

Employer argues that the plain language of both section 501(e) of the Law and 34 Pa. Code §101.82(a) requires that the Department mail the notice of determination to Employer’s post office address, not the address of its representative. However, “an agency’s interpretations of its own regulations is entitled to great deference.” *Hornsberger v. Unemployment Compensation Board of Review*, 718 A.2d 359, 364 (Pa. Cmwlth. 1998). In this case, the Department determined that Employer’s “last known post office address” was that identified by its representative as the address to which the notice of determination should be mailed. The UCBR appropriately deferred to the Department’s interpretation.

The UCBR also properly rejected Employer’s claim that its untimely filing should have been excused due to a breakdown in the administrative process. The UCBR found no evidence that the notice of determination was returned as

⁴ Employer did not object to the admission of the January 28, 2010, letter at the hearing. Employer’s only stated objection was to the admission of “any addresses that show 201 Market Street [as Employer’s address], because that’s the incorrect address.” (N.T., 4/5/10, at 12.) The referee overruled the objection. (*Id.*)

undeliverable by the postal authorities. The UCBR also found that Employer was neither misinformed nor misled by the Department concerning its right to file an appeal or the necessity of filing a timely appeal. Finally, Employer's late filing was not the result of fraud or a breakdown in the appellate process. (UCBR's Findings of Fact, Nos. 3, 6-7.) Thus, the evidence credited by the UCBR supports its conclusion that "[t]here was no administrative error by the Department[,] as the Department mailed the Determination to the address requested by the employer's representative." (UCBR's Decision & Order at 2.)⁵

Accordingly, we affirm.

ROCHELLE S. FRIEDMAN, Senior Judge

⁵ In fact, Employer testified that it received actual notice of the February 12, 2010, notice of determination "shortly after" the date of the notice. (N.T., 4/5/10, at 20.) Yet Employer offered no explanation at the hearing as to why it did not file its appeal until almost one month later.

