

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Scott M. Wood, :  
 :  
 : Petitioner :  
 :  
 : v. : No. 209 C.D. 2010  
 : SUBMITTED: June 25, 2010  
 :  
 : Unemployment Compensation :  
 : Board of Review, :  
 : Respondent :

**BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge  
HONORABLE P. KEVIN BROBSON, Judge  
HONORABLE JIM FLAHERTY, Senior Judge**

**OPINION NOT REPORTED**

**MEMORANDUM OPINION BY  
PRESIDENT JUDGE LEADBETTER**

**FILED: July 28, 2010**

Claimant Scott M. Wood petitions, *pro se*, from the order of the Unemployment Compensation Board of Review (Board) dismissing his appeal from the Referee's decision on the grounds that the appeal was untimely. We affirm.

Claimant worked as a counselor for Employer Adelphoi Village for three days, and left over a delay in determining his work schedule. After a hearing, the Referee found that Claimant left his job voluntarily, and without a necessitous and compelling reason, and denied benefits under Section 402(b) of the

Unemployment Compensation Law (Law).<sup>1</sup> The Referee's decision was dated August 19, 2009, and clearly stated that the last day to file an appeal was September 3, 2009.

Claimant filed an appeal from the Referee's decision on September 9, 2009. At hearing on the issue of timeliness, Claimant acknowledged that his appeal was late, but explained that he became confused when he received a payment after receiving the Referee's determination, and after a misleading discussion with an unidentified employee at the Department of Labor and Industry. The Board found the Claimant's testimony not credible, and dismissed Claimant's appeal as untimely under Section 502 of the Law. 43 P.S. § 822. An appeal to this court followed.

On appeal, Claimant reasserts his argument that he was confused about the necessity of filing an appeal when he continued to receive payments after receiving the Referee's determination, and that he received misleading advice from an employee at the Department of Labor and Industry. He also disputes the Referee's finding that he voluntarily left his employment.

Claimant's arguments about the timeliness of his appeal will not be reconsidered here because his assertions were found not credible by the Board. The Board is the ultimate finder of fact and questions of credibility and evidentiary weight are matters for the fact-finder and not a reviewing court. *Graham v. Unemployment Comp. Bd. of Review*, 840 A.2d 1054 (Pa. Cmwlth. 2004). Because credibility determinations rest with the Board, we can not disturb this finding.

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<sup>1</sup> Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 802(b).

Section 502 of the Law provides that unless an interested party institutes a further appeal to the Board from the Referee's decision within fifteen days after the date of such decision, the decision shall be deemed a final decision of the Board. 43 P.S. § 822. Once a decision becomes final, the Board lacks the jurisdiction to hear an appeal. *Shea v. Unemployment Comp. Bd. of Review*, 898 A.2d 31 (Pa. Cmwlth. 2006). Claimant's appeal was admittedly outside the fifteen-day limit. Thus, the Board properly dismissed claimant's appeal as untimely, and properly did not address Claimant's argument on the merits. Accordingly, we affirm.

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**BONNIE BRIGANCE LEADBETTER,**  
President Judge

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**ORDER**

AND NOW, this 28th day of July, 2010, the order of the Unemployment Compensation Board of Review in the above-captioned matter is hereby AFFIRMED.

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**BONNIE BRIGANCE LEADBETTER,**  
President Judge