

IN THE UTAH COURT OF APPEALS

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Andre N. Heggstad,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner,)	
)	Case No. 20090928-CA
v.)	
)	F I L E D
Workforce Appeals Board,)	(February 11, 2010)
Department of Workforce)	
Services,)	2010 UT App 35
)	
Respondent.)	

Original Proceeding in this Court

Attorneys: Andre N. Heggstad, Salt Lake City, Petitioner Pro Se
 Suzan Pixton, Salt Lake City, for Respondent

Before Judges Davis, Thorne, and Voros.

PER CURIAM:

Andre N. Heggstad appeals the Workforce Appeals Board's (the Board) decision that he was not entitled to backdated unemployment benefits. This matter is before the court on a sua sponte motion for summary disposition. We affirm.

Utah Code section 35-4-403(1)(a) provides, in relevant part, that an unemployed individual is eligible to receive benefits for any week if the division finds that the individual made a claim for benefits for that week in accordance with the Department of Workforce Services' (Department) rules. See Utah Code Ann. § 35A-4-403(1)(a) (Supp. 2009). The Department's rule regarding the filing of a new claim provides, in relevant part, "[a] claim for benefits can only be made effective for a prior week if the claimant can establish good cause for late filing in accordance with R994-403-106a." Utah Admin. Code R994-403-101a.

Good cause is limited to those circumstances where it is shown that the reasons for the delay in filing for benefits were due to circumstances beyond the claimant's control or were compelling and reasonable. See id. R994-403-106a. A claimant's lack of knowledge regarding unemployment insurance benefits is within a claimant's control. See Ekshteyn v. Department of

Workforce Servs., 2002 UT App 74, ¶ 12, 45 P.3d 173. Specifically, it is within a claimant's control to inquire with the Department as to whether benefits may be available. See id. Lack of knowledge of benefits does not establish good cause for an untimely filing. See id.

This court will reverse an administrative agency's findings of fact "only if the findings are not supported by substantial evidence." Drake v. Industrial Comm'n, 939 P.2d 177, 181 (Utah 1997). We will not disturb the Board's conclusion regarding the application of law to facts unless it "exceeds the bounds of reasonableness and rationality." Nelson v. Department of Employment Sec., 801 P.2d 158, 161 (Utah Ct. App. 1990).

The record indicates that there was substantial evidence to support the Board's determination that Heggstad was not entitled to backdated benefits because he failed to demonstrate good cause.¹ When specifically questioned if he contacted the Department when he first became unemployed, Heggstad testified that he failed to do so because he did not believe that he would qualify for unemployment benefits and, thus, he believed there was no reason to apply for benefits. Because good cause does not extend to circumstances where a claimant fails to seek benefits for lack of knowledge or misunderstanding, the Board's determination that Heggstad failed to demonstrate good cause for his late filing was reasonable.

Affirmed.

James Z. Davis, Presiding Judge

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge

¹Heggstad raises additional arguments as to why there was good cause to backdate unemployment benefits. However, the record indicates that these arguments were not timely raised below. See Utah Admin. Code R994-508-305. Instead, Heggstad chose to rely on his testimony that he lacked knowledge as to whether he could qualify for benefits. The Board also determined that even assuming that it were to accept his new evidence on appeal, the evidence contradicted his testimony before the Administrative Law Judge and lacked credibility.