

Cite as 2023 Ark. App. 335
ARKANSAS COURT OF APPEALS
DIVISION IV
No. E-22-215

ANGELA GOODWIN

APPELLANT

V.

DIRECTOR, DEPARTMENT OF
WORKFORCE SERVICES

APPELLEE

Opinion Delivered May 31, 2023

APPEAL FROM THE ARKANSAS
BOARD OF REVIEW

[NO. 2021-BR-05316]

REMANDED FOR FURTHER
FINDINGS

STEPHANIE POTTER BARRETT, Judge

Angela Goodwin (“Goodwin”) appeals the decision of the Board of Review (“Board”) affirming the notice of nonfraud overpayment determination issued by the Division of Workforce Services (“Division”) under Ark. Code Ann. § 11-10-532(b) (Supp. 2021) holding Goodwin liable to repay \$16,554. The issue before us is whether repayment by Goodwin should be waived because (1) the overpayment was caused as a direct result of the Division’s error; and (2) requiring repayment by Goodwin would be against the principles of equity and good conscience. We remand for further findings.

On appeal of an unemployment-compensation case, we affirm the Board’s decision when it is supported by substantial evidence. *Jones v. Dir.*, 2019 Ark. App. 341, at 3, 581 S.W.3d 517, 518. Substantial evidence is what reasonable minds might accept as adequate to support a conclusion. *Id.* “[W]e review the evidence and all reasonable inferences

deducible therefrom in the light most favorable to the Board's findings." *Id.* However, our function on appeal is not to merely ratify whatever decision is made by the Board. *Id.* Therefore, "[w]e will reverse the Board's decision when it is not supported by substantial evidence." *Id.*

The Division issued a notice of nonfraud overpayment determination to Goodwin on September 13, 2021, finding Goodwin liable to repay \$16,554 in benefits pursuant to Ark. Code Ann. § 11-10-532(b). Goodwin filed a timely appeal of this determination to the Appeal Tribunal ("Tribunal"), which conducted a hearing on October 12, 2021, and affirmed the Division's determination. Goodwin timely appealed to the Board, and the Board affirmed the Tribunal's decision.

Goodwin received benefits for the week ending April 7, 2020, through the week ending August 22, 2020, and for the week ending January 2, 2021, through the week ending April 3, 2021, totaling \$16,554. On August 5, 2021, the Division issued a notice of agency determination denying Goodwin benefits under Ark. Code Ann. § 11-10-507(3)(a) (Supp. 2021) on finding that Goodwin was not available to perform suitable work. Goodwin appealed this determination to the Tribunal, and the determination was affirmed. Goodwin then appealed to the Board, which affirmed the Tribunal's decision.

"If the Director finds that any person has received any amount as benefit under this chapter to which he was not entitled by reason other than fraud, willful misrepresentation, or willful nondisclosure of facts, the person is liable to repay the amount to the Unemployment Compensation Fund." Ark. Code Ann. § 11-10-532(b)(1). However,

repayment may be waived if the overpayment was caused as a direct result of the Division's error, and it would be against the principles of equity and good conscience to require repayment. *Carman v. Dir.*, 2023 Ark. App. 51, at 7, 660 S.W.3d 852, 857. Principles of equity and good conscience, such as whether the claimant has the ability to repay, need not be addressed if the overpayment was not a direct result of an error by the Division. *Id.*

In *Carman*, we held there was substantial evidence that the overpayment was not caused as a direct result of the Division's error when the record showed that the claimant later revealed to the Division that he was not available for work during the time period for which he had already received benefits. *Id.* Here, the Board found that Goodwin "was overpaid benefits due to the Division finding that she was not available for suitable work" and that "the overpayment was not received as a direct result of an error by the Division." In *Pillow v. Director*, 2022 Ark. App. 341, we addressed similar findings by the Board and held that such findings did not explain why the claimant was found eligible for benefits and was only later determined to be ineligible or disqualified. If adequate findings of fact are not made on the issue presented, we remand to the Board for it to provide findings of fact and conclusions of law upon which to perform proper appellate review. *Pillow, supra*. A conclusory statement by the Board that does not detail or analyze the facts upon which it is based is not sufficient. *Id.* Accordingly, as in *Pillow*, we remand for further findings. In the event the Board finds on remand that the Division made an error that directly resulted in the overpayment, the Board should make detailed factual findings with respect to whether recovery would be against the principles of equity and good conscience. *Id.*

Remanded for further findings.

KLAPPENBACH and BROWN, JJ., agree.

Angela Goodwin, pro se appellant.

Cynthia L. Uhrynowycz, Associate General Counsel, for appellee.