

Cite as 2023 Ark. App. 511  
**ARKANSAS COURT OF APPEALS**

DIVISION III  
No. E-22-438

ONTARIA JACKSON

APPELLANT

V.

DIRECTOR, DIVISION OF WORKFORCE  
SERVICES

APPELLEE

Opinion Delivered November 8, 2023

APPEAL FROM THE ARKANSAS  
BOARD OF REVIEW

[NO. 2022-BR-00237]

REMANDED TO SUPPLEMENT THE  
RECORD

---

**BART F. VIRDEN, Judge**

Appellant, Ontaria Jackson, appeals an adverse ruling of the Board of Review (Board) affirming the Appeal Tribunal's (Tribunal's) finding that she untimely filed an overpayment-determination appeal and is therefore required to repay unemployment benefits. We remand to supplement the record.

On April 5, 2021, the Division of Workforce Services (DWS) issued a "Notice of Nonfraud Overpayment Determination" finding that Jackson must repay \$11,625 in unemployment benefits for which she had initially been found eligible but was later disqualified. On December 9, 2021, a tax intercept letter was mailed to her, informing her that this amount could also be garnished from any government tax refunds to which she may

be entitled. On December 22, 2021, she filed an appeal of the overpayment determination to the Tribunal.

On January 18, 2022, the Tribunal conducted a hearing pursuant to *Paulino v. Daniels*, 269 Ark. 676, 559 S.W.2d 760 (Ark. App. 1980), to determine whether the untimely filing of the appeal was due to circumstances outside Jackson’s control. At the hearing, the hearing officer and Jackson both referenced her appeal in the underlying unemployment-benefits claim. Jackson claimed—and the hearing officer confirmed on the record—that Jackson’s initial benefits disqualification had been reversed in a previous Tribunal hearing. However, despite the hearing officer telling Jackson that “[she] shouldn’t owe the debt,” and the overpayment determination “should be reversed,” the Tribunal still dismissed her overpayment appeal because the untimely filing was deemed to not be due to circumstances beyond Jackson’s control. Jackson timely appealed to the Board, which summarily affirmed the dismissal and left the overpayment determination in place. Jackson now appeals the Board decision.

Other than the discussion on the record at the tribunal hearing, the record on appeal does not contain any information about Jackson’s underlying unemployment-benefits claim, and the Board’s decision does not reference the final determination. This information is essential to a proper review of whether the benefits at issue need to be repaid. See *Spicer v. Dir.*, 2022 Ark. App. 152; *Van Venrooij v. Dir.*, 2021 Ark. App. 213. Further, it directly bears on whether the “confusion” that caused Jackson’s untimely overpayment appeal was due to

Jackson's receipt of potentially conflicting correspondence from DWS at different times. Therefore, we cannot reach the merits of her claim at this time.

This case is remanded to the Board to supplement the record in this matter to include a copy of the record, including the final decision, of Jackson's underlying employment-benefits claim.

Remanded to supplement the record.

GLADWIN and BARRETT, JJ., agree.

*Ontaria Jackson*, pro se appellant.

*Cynthia L. Uhrynouycz*, Associate General Counsel, for appellee.