

Cite as 2023 Ark. App. 585
ARKANSAS COURT OF APPEALS
DIVISION II
No. E-22-499

BRIDGETTE ROBINSON

APPELLANT

V.

DIRECTOR, DIVISION OF
WORKFORCE SERVICES

APPELLEE

Opinion Delivered December 13, 2023

APPEAL FROM THE ARKANSAS
BOARD OF REVIEW
[NO. 2022-BR-00509]

REMANDED TO SETTLE AND
SUPPLEMENT THE RECORD

RITA W. GRUBER, Judge

Appellant Bridgette Robinson appeals the decision of the Arkansas Board of Review (Board) dismissing her appeal on finding that her appeal to the Board was untimely filed and that she failed to show the late filing was due to circumstances beyond her control. Because our record does not contain a transcript of the August 9, 2022 hearing conducted by the Board on the timeliness issue, we remand to settle and supplement the record to include a transcript of that hearing.

On March 1, 2021, the Division of Workforce Services (DWS) issued a “Notice of Agency Determination” denying Robinson benefits under Arkansas Code Annotated section 11-10-519(a)(1) (Supp. 2023). Robinson filed an untimely appeal of the determination to the Appeal Tribunal (Tribunal). At the same time, Robinson filed untimely appeals of two other determinations that are at issue in companion cases.

The Tribunal scheduled a consolidated hearing pursuant to *Paulino v. Daniels*, 269 Ark. 676, 559 S.W.2d 760 (Ark. App. 1980), for all three cases on July 14, 2021, to establish whether the late filing of each appeal was the result of circumstances beyond Robinson’s control. Robinson did not appear. The Tribunal dismissed the three appeals by decision letters dated July 16, finding that the untimely filing of the appeals was not due to circumstances beyond Robinson’s control.

Robinson timely requested reopening, and a hearing on the reopening was held on August 26. In the transcript of the hearing, the docket numbers of all three cases before the Tribunal were read into the record. The Tribunal denied Robinson’s requests for reopening by decision letters dated September 13, 2021, on finding she did not show good cause for failing to appear at the July 14 hearing. These denials left the DWS’s determinations in each case in effect.

Thereafter, Robinson filed untimely petitions to appeal all three of the Tribunal’s determinations to the Board.¹ The Board sent out separate hearing notices for each appeal, setting the hearings for the same date and time—August 9, 2022, at 10:00 a.m.—to determine whether the late filing of the appeal was the result of circumstances beyond Robinson’s

¹Robinson subsequently filed separate appeals of the Board’s decisions, dismissing her appeals as untimely in the following appeals: (1) No. E-22-500, involving a “Notice of Fraud Overpayment Determination” that required Robinson to repay benefits under Arkansas Code Annotated section 11-10-532(a) (Supp. 2023), handed down as a companion case today in *Robinson v. Director*, 2023 Ark. App. 586; and (2) No. E-22-498, involving a separate “Notice of Agency Determination” that denied Robinson benefits under Arkansas Code Annotated section 11-10-513 (Supp. 2023).

control. The record before us contains only the transcript of the hearing in No. E-22-498. While all three appeals may have been considered at the same hearing, there is nothing in the record for Nos. E-22-499 or E-22-500 to indicate that those appeals were addressed at the hearing. The Board based its decisions on the record and the testimony submitted at the Board's hearing and found that Robinson failed to show that the late filings of the appeals were due to circumstances beyond her control. Because our record does not contain a transcript of the August 9, 2022 *Paulino* hearing for the case before us, No. E-22-499, we cannot reach the merits of Robinson's claim at this time. This case is therefore remanded to the Board to settle and supplement the record.

Remanded to settle and supplement the record.

VIRDEN and BROWN, JJ., agree.

Bridgette Robinson, pro se appellant.

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