

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

THOMAS BELL,)	
)	
Appellant,)	
)	C.A. No. 02A-09-001 WCC
)	
v.)	
)	
NORTHEAST TREATMENT)	
CENTERS, INC., and)	
UNEMPLOYMENT)	
INSURANCE APPEAL BOARD,)	
)	
Appellees.)	

Submitted: April 1, 2003
Decided: June 30, 2003

ORDER

Upon Appeal from a Decision of the
Unemployment Insurance Appeal Board. Affirmed.

Thomas Bell, 1338 N. French Street, Wilmington, DE 19801. *Pro Se* Appellant.

Bruce C. Herron, Esquire, Akin & Herron, 1220 N. Market Street, #608, P.O. Box 25047, Wilmington, DE 19899-5047. Attorney for Appellee Northeast Treatment Centers, Inc.

Stephani J. Ballard, Esquire, Department of Justice, Carvel State Office Building, 820 N. French Street, Wilmington, DE 19801. Attorney for Appellee Unemployment Insurance Appeal Board.

CARPENTER, J.

This 30th day of June, 2003, after consideration of the appeal of Thomas Bell (“Appellant”) from the August 22, 2002 decision of the Unemployment Insurance Appeal Board (“Board”), and upon review of the briefs and the record below, it appears to the Court that:

1. The Appellant was employed by Northeast Treatment Centers, Inc., (“Employer” or “NET”), from April 8, 1998, until March 28, 2002 as a Resident Manager in NET’s Alternatives Program, a residential treatment program for individuals who are in recovery from drug and alcohol addiction. He was subsequently discharged from his employment for poor performance and on March 31, 2002, he filed a claim for unemployment benefits, claiming he had been unjustly terminated from his employment. A Claims Deputy from the Department of Labor found Appellant eligible for benefits. Employer then appealed this decision to the Appeals Referee who, following an evidentiary hearing on July 2, 2002, found that the Employer had just cause to discharge the Appellant and disqualified him from the receipt of benefits.

Thereafter, Appellant appealed the Referee’s decision to the Board, who scheduled a hearing for August 21, 2002. The Appellant failed to appear for the hearing and did not notify the Board either before or after the hearing with the reason for his absence. Further, he did not request a continuance or postponement of this

hearing date. The Board subsequently dismissed the appeal because the Appellant failed to appear, mailing its decision on August 22, 2002. Consequently, the Appellant, *pro se*, appealed the Board's decision to this Court, arguing the merits of the case and did not address or claim that the Board erred in dismissing the appeal.

2. The Board asserts that Appellant is procedurally barred from seeking this Court's review. In support, they contend that Appellant failed to exhaust his administrative remedies by failing to attend the Board hearing, and as such is not entitled to seek judicial review of the merits of his case pursuant to title 19, section 3322(a) of the Delaware Code. This provision of the Code provides that "judicial review [of the Unemployment Insurance Appeal Board's decision] ... shall be permitted only after any party claiming to be aggrieved thereby has exhausted all administrative remedies as provided by this chapter."

3. This Court has previously held in *Griffin v. Daimler Chrysler*,¹ that "[t]he doctrine of exhaustion of administrative remedies requires that where a remedy before an administrative agency is provided, relief must be sought by exhausting this remedy before the courts will act."² It is only after the administrative

¹ 2000 WL 33309877 (Del. Super. Ct.)

² *Griffin v. Daimler Chrysler*, 2000 WL 33309877 (Del. Super. Ct.) (quoting *Carter v. Department of Labor*, 1993 WL 489222 (Del. Super. Ct.)).

process has been completed that a court may review the claim.³ Title 19, section 3320 of the Delaware Code provides that the final administrative remedy for the Appellant is a hearing before the Board. As the Appellant did not appear at the Board hearing, he has failed to exhaust his administrative remedies and the Court lacks jurisdiction to review the merits of the case.⁴ An appellant may not simply decide to bypass the administrative board and proceed to judicial review,⁵ and his failure to participate at the hearing forfeits his appellate rights to this Court.

4. The Court finds that Appellant failed to exhaust his administrative remedies and as such his appeal must be denied. For the foregoing reasons, the decision of the Unemployment Insurance Appeal Board is AFFIRMED.

IT IS SO ORDERED.

Judge William C. Carpenter, Jr.

³ *Id.*, see also *Mintz v. Wilmington Trust Co.*, 1995 WL 862116 at *2 n.3 (Del. Super. Ct.).

⁴ See *Griffin v. Daimler Chrysler*, 2000 WL 33309877 (citing *Wilson v. Servalli Restaurant*, 1999 WL 1611271 (Del. Super. Ct.)).

⁵ *Carter v. Department of Labor*, 1993 WL 489222 at *2 (Del. Super. Ct.).