

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

ANTHONY MASON,)	
)	
Appellant,)	
)	
V.)	C.A. No. SN09A-09-008 JRS
)	
The UNEMPLOYMENT)	
INSURANCE APPEAL BOARD,)	
)	
Appellees.)	

Date Submitted: September 27, 2010
Date Decided: December 13, 2010

*Upon Consideration of
Appeal From the Unemployment Insurance Appeal Board.*
AFFIRMED.

ORDER

This 13th day of December, 2010, upon consideration of the *pro se* appeal of Anthony Mason from the decision of the Unemployment Insurance Appeal Board (the “Board”) denying his claim for unemployment benefits, it appears to the Court that:

1. Mr. Mason collected unemployment compensation from February 9,

2008 until August 26, 2008.¹ Mr. Mason then filed for Emergency Unemployment Compensation and collected benefits from August 2, 2008 until January 1, 2009, at which time the claim was exhausted.² Mr. Mason then filed a new unemployment claim on February 8, 2009.³

2. Through a cross-match investigation, the Department of Labor (“DOL”) received information from Target Corporation that Mr. Mason had been employed and was earning wages while collecting unemployment benefits.⁴ Mr. Mason was notified by mail on February 24, 2009 that he must contact the DOL by March 3, 2009. Mr. Mason failed to contact the DOL in regard to the February notification.⁵

3. On March 6, 2009, a DOL Claims Deputy reviewed Mr. Mason’s unemployment compensation request. Target Corporation reported wages beginning in July 2007 until October 18, 2008.⁶ Wages reported by Mr. Mason during this time were considerably lower than those reported by his employer.⁷ The Claims Deputy

¹Record (“R.” at __) R. at 10.

²*Id.*

³*Id.*

⁴*Id.*

⁵*Id.*

⁶*Id.*

⁷*Id. See also* R. at 1-9.

determined, based on the documentation provided by Target and Mr. Mason, that Mr. Mason was disqualified from receiving benefits (due to fraud) pursuant to 19 *Del. C.* § 3314(6).⁸ On March 23, 2009, the Claims Deputy further determined that Mr. Mason was responsible for repayment of the overpaid benefits in the amount of \$4,295.00 pursuant to 19 *Del. C.* § 3325.⁹

4. The DOL mailed a Notice of Determination of their March 6, 2009 decision to Mr. Mason that same day, notifying him that he must file an appeal of the Claims Deputy's decision by March 16, 2009.¹⁰ It was not until August 4, 2009 that Mr. Mason filed his appeal in person.¹¹ On August 5, 2009, the Claims Deputy determined that Mr. Mason's failure to file his appeal within the time frame prescribed by 19 *Del. C.* § 3318(b) rendered the March 6, 2009 decision binding.¹²

5. The DOL mailed a Notice of Determination of their March 23, 2009 decision to Mr. Mason on that same day, notifying him that he must file an appeal of the Claim's Deputy's decision concerning the repayment of overpaid unemployment

⁸*Id.*

⁹R. at 12, 14.

¹⁰R. at 16. There is nothing in the Record to show that any returned mail was received by the DOL. R. at 16.

¹¹*Id.*

¹² R. at 16.

compensation by April 2, 2009.¹³ Mr. Mason did not file his appeal until August 4, 2009. On August 5, 2009, the Claims Deputy determined that Mr. Mason's failure to file his appeal within the time frame prescribed by 19 *Del. C.* § 3318(b) rendered the March 23, 2009 decision binding.¹⁴

6. Mr. Mason appealed all of the decisions of the Claims Deputy to the Appeals Referee and a hearing was held on September 1, 2009, on the issue of timeliness only.¹⁵ The Appeals Referee concluded, pursuant to 19 *Del. C.* § 3318(b), that Mr. Mason failed to file a timely appeal and that there was no evidence of any administrative error by the DOL that could warrant an exception to the time deadlines imposed by the statute.¹⁶ As such, the decision of the Claims Deputy was affirmed as final and binding.

7. On September 4, 2009, Mr. Mason filed an appeal for further review of the Claims Referee's decision with the Board on the basis that he "did not agree with the decision" of the Appeals Referee.¹⁷ On September 16, 2009, the Board found that

¹³R. at 17.

¹⁴ R. at 16.

¹⁵R. at 19-21.

¹⁶R. at 27-33.

¹⁷R. at 52.

Mr. Mason provided an insufficient explanation for his late appeal.¹⁸ The Board further determined that the record supported the inference that the only reason for Mr. Mason's delay in filing an appeal was his own negligence. Accordingly, the Board declined to exercise its discretion under 19 *Del. C.* § 3318(b).¹⁹

8. Mr. Mason filed an appeal to this Court on September 27, 2009 on the grounds that he does not agree with the Board's determination.²⁰

9. The Court's standard of review of the Board's decision is well settled. The Court must determine whether the Board's factual findings are supported by substantial evidence and free from legal error.²¹ Substantial evidence is "relevant evidence as a reasonable mind might accept as adequate to support a conclusion."²² The Court does not weigh evidence, assess credibility, or make independent factual findings.²³ And legal determinations by the Board are reviewed for abuse of

¹⁸R. at 53.

¹⁹*Id.* The Court notes that Mr. Mason contends that he was in a rehabilitation facility from February 18, 2009 until July 30, 2009. R. at 49. However, it was Mr. Mason's responsibility to inform the DOL of his temporary address.

²⁰Reply Br. at 2.

²¹*Morgan v. Anchor Motor Freight, Inc.*, 506 A.2d 185, 188 (Del. Super. 1986).

²²*Oceanport Indus. v. Wilmington Stevedores*, 636 A.2d 892, 899 (Del. 1994).

²³*Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

discretion.²⁴

10. On March 22, 2010, Mr. Mason filed for an extension of time to seek legal assistance. The Court set April 19, 2010 as the new deadline for Mr. Mason to file his Opening Brief. Mr. Mason applied for and was given yet another extension of time, with the new date for his Opening Brief set for May 10, 2010. That deadline came and went with no response from Mr. Mason. On May 24, 2010, Mr. Mason finally sent an Opening Brief to the Court.²⁵

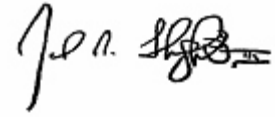
11. The Court is satisfied that the overwhelming evidence in the Record supports the Board's determination. The Court can find no abuse of discretion by the Board; it is abundantly clear from the Record that Mr. Mason's own negligence (his failure to abide by deadlines imposed by Delaware law) is to blame for his inability to present the merits of his claims.

12. Based on the foregoing, the Court is satisfied that the Board applied the correct legal standards and that its decision is supported by substantial evidence. Accordingly, the decision of the Board denying Mr. Mason's application for unemployment compensation must be **AFFIRMED**.

²⁴ *Funk v. Unemployment Ins. Appeal Bd.*, 591 A.2d 222, 225 (Del. 1991).

²⁵The Court notes that Mr. Mason's Opening Brief was one paragraph in length and provided no explanation of his case except for the fact that he was in a rehabilitation facility and having health problems.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "J.R. Slights, III". The signature is written in a cursive style with a horizontal line at the end.

Judge Joseph R. Slights, III

Original to Prothonotary