

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

TYQUAN BERRY,)
)
 Appellant,)
)
 v.) **C.A. No. N18A-12-001 FWW**
)
 CHOPTANK EXCAVATION,)
 AND UNEMPLOYMENT)
 INSURANCE APPEALS BOARD,)
)
 Appellees.)

Upon Appeal from the Unemployment Insurance Appeal Board
DISMISSED

ORDER

Submitted: May 29, 2019
Decided: June 26, 2019

Tyquan Berry, 100 West 25th Street, Wilmington, DE 19802, *pro se*, Appellant

Choptank Excavation, 410 Joshua Lane, Middletown, DE 19709, Appellee.

Daniel C. Mulveny, Esquire, Deputy Attorney General; Victoria Counihan, Esquire, Deputy Attorney General, Department of Justice, 820 N. French Street, Wilmington, DE 19801, Attorneys for Appellee Unemployment Insurance Appeals Board.

WHARTON, J.

1. This 26th day of June, 2019, it appears to the Court that Tyquan Berry (“Berry”) filed this appeal from a decision of the Unemployment Insurance Appeal Board (“UIAB” or “Board”) on December 4, 2018¹ and a brief schedule issued.² A final delinquent brief notice was issued to Berry,³ and on March 19, 2019 he submitted a two-page document as his opening brief.⁴ On that same day, counsel for the UIAB submitted a letter advising the Court that the Board did not intend to file an answering brief addressing the merits of the matter as the Board did not have an interest in seeking to have its decision sustained.⁵ Counsel for the Board did inform the Court that it appeared that the appeal was untimely and should be dismissed.⁶ Appellee Choptank Excavation has not appeared through counsel, nor has it attempted otherwise to submit an answering brief.

2. As the Board points out, this Court’s jurisdiction on appeal from the UIAB is governed by 19 *Del. C.* § 3323(a). That statute requires an appellant to file a notice of appeal within 10 days of the Board’s decision becoming final. The record demonstrates that the Board’s decision was mailed to Berry on November 5, 2018.⁷

¹ Notice of Appeal, D.I. 1.

² D.I. 6.

³ D.I. 8.

⁴ D.I. 9.

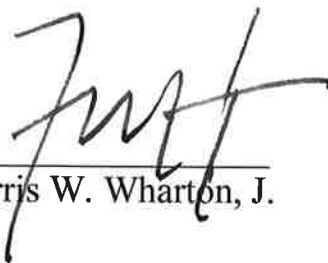
⁵ D.I. 10.

⁶ *Id.*

⁷ R. at 33.

Accordingly, this Court is without jurisdiction to hear the appeal and, therefore, it is **DISMISSED**.

IT IS SO ORDERED.



Ferris W. Wharton, J.

^{FMWV}
Superior Court of the State of Delaware
Leonard L. Williams Justice Center
500 North King Street, Suite 10400
Wilmington, DE 19801-3733
0203100

"Official Business, Penalty For Private Use \$300"

Choptank Excavation
410 Joshua Lane
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