

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

<b>RONNIE R. GRIFFIN,</b>	)	
	)	
<b>Appellant,</b>	)	
	)	<b>C.A. No. 00A-10-008 WCC</b>
	)	
<b>v.</b>	)	
	)	
<b>DAIMLER CHRYSLER</b>	)	
<b>and UNEMPLOYMENT</b>	)	
<b>INSURANCE APPEAL BOARD,</b>	)	
	)	
<b>Appellees.</b>	)	

**Submitted: January 11, 2001**  
**Decided: April 27, 2001**

**O R D E R**

**Appellee Unemployment Insurance Appeal Board's Motion to Dismiss.**  
**Granted.**

**Ronnie R. Griffin, 55-1 West Chestnut Hill Road, Newark, Delaware 19713. Pro se Appellant.**

**James J. Hanley, Esquire, Carvel State Office Building, 820 N. French Street, 6th Floor, Wilmington, DE 19801. Attorney for Appellee Unemployment Insurance Appeal Board.**

**CARPENTER, J.**

This 27th day of April, 2001, after considering the Unemployment Insurance Appeal Board's ("Board") motion to dismiss Ronnie R. Griffin's ("Appellant") appeal from the decision of the Board, it appears that:

1. The Appellant was employed by Daimler Chrysler ("Chrysler") as a technician from January 24, 1989 until March 3, 2000. When the Appellant was discharged from Chrysler for failure to provide sufficient medical documentation for an injury, he filed a claim for unemployment benefits. A Claims Deputy from the Department of Labor disqualified the Appellant for receipt of benefits because the Appellant was discharged with just cause in connection with his work.<sup>1</sup> The Appellant appealed this decision to the Appeals Referee, who affirmed the Claims Deputy's decision. The Appeals Referee found that the Appellant was discharged from Chrysler for just cause, in that he failed to comply with Chrysler's policy after repeated chances.

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<sup>1</sup> The Deputy determined that the Appellant failed to fulfill Chrysler's reinstatement requirements.

2. Thereafter, the Appellant appealed the Referee's decision to the Board, and the Board held a hearing on September 27, 2000. The Appellant failed to appear for the hearing and did not notify the Board before or after the hearing with the reason for his absence. As such, the Board dismissed the appeal because the Appellant failed to appear. Consequently, the Appellant, *pro se*, appealed the Board's decision to this Court, arguing the merits of the case.<sup>2</sup> Prior to the filing of any briefs, the Board moves to dismiss the appeal as a result of the Appellant's failure to exhaust his administrative remedies under 19 *Del. C.* §3322.

3. Superior Court Civil Rule 72(i) governs the grounds upon which the Court may dismiss an appeal upon a motion by any party. It states, in part, "[d]ismissal may be ordered for untimely filing of an appeal, for appealing an unappealable interlocutory order, for failure of a party diligently to prosecute the

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<sup>2</sup> The Appellant specifically stated in his grounds for appeal:

- (1) The amount of information required by Daimler Chrysler this time was more extensive than had been required on previous reinstatements.
- (2) Chrysler had been the one who's [sic] doctor provided the code or "PQX" that precipitated my roll out from work.

appeal, for failure to comply with any rule, statute, or order of the Court or for any other reason deemed by the Court to be appropriate.”<sup>3</sup>

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<sup>3</sup> Super. Ct. Civ. R. 72(i).

4. According to 19 *Del. C.* §3322(a), “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.” “The 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.”<sup>4</sup> Only after the completion of the administrative process may a court review the claim.<sup>5</sup> The Board argues that dismissal is warranted because the Appellant failed to exhaust his administrative remedies by failing to attend the Board hearing and thus the Court lacks jurisdiction to hear the appeal.

5. In *Wilson v. Servalli Restaurant*,<sup>6</sup> this Court addressed the issue, stating that it could only review a Board decision after the aggrieved party had exhausted all his administrative remedies, and because the appellant failed to attend the Board hearing and did not present his case to the Board, he did not exhaust all administrative remedies. Thus, the Court found that it lacked jurisdiction to hear the merits of the

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<sup>4</sup> *Carter v. Department of Labor*, Del. Super., C.A. No. 93A-03-001, Steele, J. (Nov. 12, 1993)(ORDER) at 2 (*quoting* 2 Am.Jur.2d *Administrative Law* §595, at 426).

<sup>5</sup> *Carter* at 2.

<sup>6</sup> Del. Super., C.A. No. 99A-01-005, Del Pesco, J. (Apr. 30, 1999)(ORDER).

case.<sup>7</sup> While the *Wilson* Court ultimately denied the motion to dismiss because under the facts of the case, the Court still had jurisdiction to determine whether the Board abused its discretion in denying the request for a rehearing,<sup>8</sup> the fundamental principle of exhaustion remains the law of this jurisdiction.

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<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.*

6. In the case sub judice, the Court similarly finds that it lacks jurisdiction to address the merits of the case. The Appellant failed to appear at the Board hearing, and the merits were not addressed by the Board. As such, the Court lacks jurisdiction to review the merits of the case because the Appellant did not exhaust all administrative remedies by not presenting his case to the Board.<sup>9</sup>

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<sup>9</sup> *Id.* See also *Mintz v. Wilmington Trust Co.*, Del. Super., C.A. No. 92A-11-013, Gebelein, J. (Nov. 15, 1995)(ORDER) at 2, n.3; *Carter* at 2.

However, unlike *Wilson*, the Court will grant the Board's motion to dismiss.

In *Wilson*, the Court denied the motion and allowed the appeal to proceed because the appellant had specifically cited grounds concerning the Board's alleged abuse of discretion. But, in this case, the Appellant's grounds for appeal only concerned the merits of the case, and he did not assert any allegations concerning the Board's abuse of discretion in dismissing the appeal for his failure to appear. In fact, the Appellant admitted in this response to the Board's motion to dismiss that his decision not to attend the Board hearing was a conscious choice based upon his financial condition at the time.<sup>10</sup> He never requested to reschedule nor attempted to explain to the Board the reason the hearing date was inconvenient. He simply failed to appear. By doing so, he forfeited his right to appeal.

7. As such, the Court grants the motion to dismiss the appeal under Superior Court Civil Rule 72(i), because as a result of the Appellant's failure to exhaust his administrative remedies, the Court lacks jurisdiction to address the merits

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<sup>10</sup> In his response to the Board's motion to dismiss, the Appellant stated:

First, I must address the matter of me missing the labor Board hearing. I was somewhat stressed out, being in a money pinch and not wanting to be evicted from my apartment. I had found a job that helping [sic] me to meet my financial obligations and I didn't want to loose [sic] it by missing work not knowing my chance at doing well at a hearing. When I given [sic] a chance to appeal the UIAB decision it seemed like a good thing to do because I didn't feel as though the referee at unemployment saw all information presented to him quite right.



of the case, which were the sole grounds for this appeal.

IT IS SO ORDERED.

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Judge William C. Carpenter, Jr.