

Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

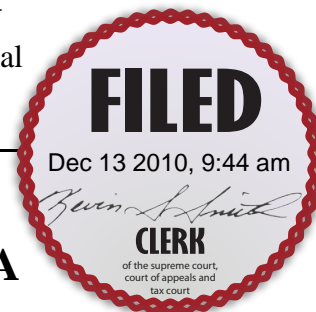
APPELLANT PRO SE:

J.R.
Bloomfield, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

PAMELA S. MORAN
Deputy Attorney General
Indianapolis, Indiana



**IN THE
COURT OF APPEALS OF INDIANA**

J.R.,)
)
Appellant,)
)
vs.) No. 93A02-1001-EX-4
)
REVIEW BOARD OF THE INDIANA)
DEPARTMENT OF WORKFORCE)
DEVELOPMENT,)
)
Appellee.)

APPEAL FROM THE REVIEW BOARD OF THE DEPARTMENT OF WORKFORCE
DEVELOPMENT
Cause No. 09-R-5240

December 13, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

BARNES, Judge

Case Summary

J.R. appeals the Review Board of the Indiana Department of Workforce Development's denial of her request for unemployment benefits. We affirm.

Issue

J.R. raises one issue, which we restate as whether the Review Board properly denied her request for unemployment benefits.

Facts

J.R. was terminated from her employment at Cook Incorporated, and on September 21, 2009, a claims deputy with the Indiana Department of Workforce Development determined that J.R. was ineligible for unemployment benefits because she was terminated for just cause. The notification informed her that she had thirteen days to appeal the claims deputy's determination. J.R. attempted to appeal the determination on October 7, 2009. On October 15, 2009, an administrative law judge ("ALJ") determined that J.R.'s appeal was untimely because it was not filed within the thirteen-day time period. The ALJ dismissed J.R.'s appeal. J.R. then appealed the ALJ's decision to the Review Board, which affirmed the ALJ's decision. J.R. now appeals the Review Board's decision.

Analysis

J.R. argues that the Review Board erred when it affirmed the decision of the ALJ dismissing her appeal as untimely. On appeal, we review the Board's (1) determinations

of specific or basic underlying facts; (2) conclusions or inferences from those facts, or determinations of ultimate facts; and (3) conclusions of law. McClain v. Review Bd. of Indiana Dept. of Workforce Dev., 693 N.E.2d 1314, 1317 (Ind. 1998). Review of the Board's findings of basic fact are subject to a "substantial evidence" standard of review. Id. In this analysis, we neither reweigh the evidence nor assess the credibility of witnesses and consider only the evidence most favorable to the Board's findings. Id. Reversal is warranted only if there is no substantial evidence to support the Board's findings. Id. (citing KBI, Inc. v. Review Board of Indiana Dept. of Workforce Dev., 656 N.E.2d 842, 846 (Ind. Ct. App. 1995)). Next, the Board's determinations of ultimate facts, which involve an inference or deduction based upon the findings of basic fact, are generally reviewed to ensure that the Board's inference is reasonable. Id. at 1317-18. Finally, we review conclusions of law to determine whether the Board correctly interpreted and applied the law. McHugh v. Review Bd. of Indiana Dept. of Workforce Dev., 842 N.E.2d 436, 440 (Ind. Ct. App. 2006). A Review Board's determination that an appeal was untimely filed is a legal conclusion. Cunningham v. Review Bd. of Indiana Dept. of Workforce Dev., 913 N.E.2d 203, 206 (Ind. Ct. App. 2009).

Generally, claimants have ten days from the date that their eligibility notice is mailed to request a hearing before the eligibility determination becomes final and "benefits shall be paid or denied in accordance therewith." Ind. Code § 22-4-17-2(a). Indiana Code Section 22-4-17-14 provides that claimants have three additional days if their "notice is served through the United States mail." Finally, under Indiana Trial Rule 6, the time period is extended if the deadline falls on a weekend. The claims deputy

issued a ruling on September 21, 2009. The thirteen-day period for appealing that determination ended on Sunday, October 4, 2009. Consequently, J.R. was required to appeal the claims deputy's determination by Monday, October 5, 2009. However, J.R. did not appeal the determination until Wednesday, October 7, 2009. Because J.R. failed to timely file her appeal of the claims deputy's determination, the ALJ properly dismissed her appeal, and the Review Board properly affirmed the ALJ's determination.

Conclusion

The Review Board properly affirmed the ALJ's dismissal of J.R.'s appeal because her appeal was not filed in a timely manner. We affirm.

Affirmed.

BAKER, C.J., and VAIDIK, J., concur.