

MEMORANDUM DECISION

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.



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IN THE COURT OF APPEALS OF INDIANA

Z.T.,
Appellant-Petitioner,

v.

Review Board of the Indiana
Department of Workforce
Development,
Appellee-Respondent.

October 17, 2022

Court of Appeals Case No.
22A-EX-1360

Appeal from the Review Board of
the Department of Workforce
Development

Gabriel Paul, Chairman
Larry A. Dailey, Member
Heather D. Cummings, Member

Trial Court Cause No.
22-R-2484

Altice, Judge.

Case Summary

- [1] After voluntarily leaving her employment, Z.T. sought unemployment compensation. An administrative law judge (ALJ) affirmed the Department of Workforce Development's (DWD) denial of Z.T.'s claim on the basis that she left employment without good cause in connection with the work. Z.T. eventually appealed the ALJ's decision, and the Review Board dismissed the appeal as untimely.
- [2] On appeal, Z.T. acknowledges that her appeal to the Review Board was untimely but asks that we consider the merits of whether she left her employment without good cause.
- [3] We affirm.

Facts & Procedural History

- [4] Z.T. voluntarily left her employment on July 2, 2021, and filed for unemployment benefits, which were denied by a DWD claims investigator. Z.T. filed a timely appeal of the eligibility determination, requesting a hearing before an ALJ. That hearing took place telephonically on February 14, 2022. The following day, the ALJ issued its written decision, affirming the denial of benefits. The ALJ determined that Z.T. did not leave her employment for good cause in connection with her work but rather for personal reasons (that is, Z.T. did not have suitable childcare to return to the office full-time, as required by

her employer after a period of remote work due to the COVID-19 pandemic). The ALJ's decision informed Z.T. that she must file an appeal with the Review Board within fifteen calendar days or the decision would become final.

- [5] Z.T. received the ALJ's decision the same day it was sent, February 15, 2022, but she did not file an appeal with the Review Board until April 14, 2022. On May 10, she supplemented her filing and acknowledged that her appeal was late but asked the Review Board to have "mercy" on her and grant the late appeal. *Appellee's Appendix* at 10. Z.T. claimed to have been "overwhelmed" and dealing with "mental health/emotional crisis" from a sexual assault. *Id.* at 9.
- [6] On May 27, 2022, the Review Board dismissed Z.T.'s appeal as untimely. Z.T., pro se, now appeals from the Review Board's notice of dismissal.

Discussion & Decision

- [7] Initially, we observe that Z.T. has failed to include a single citation to authority in her appellate brief and provides only one record citation. "A party waives an issue where the party fails to develop a cogent argument or provide[] adequate citation to authority and portions of the record." *Dridi v. Cole Kline LLC*, 172 N.E.3d 361, 366 (Ind. Ct. App. 2021); *see also* Ind. Appellate Rule 46(A)(8) (requiring that contentions in appellant's brief be supported by cogent reasoning and citations to authorities, statutes, and the appendix or parts of the record on appeal). Thus, Z.T.'s appellate claims are waived.
- [8] Further, waiver aside, it is well established that "[t]he time period for perfecting an appeal from an ALJ's determination is statutorily defined." *Szymanski v.*

Review Bd. of Workforce Dev., 656 N.E.2d 290, 292 (Ind. Ct. App. 1995). Indiana Code § 22-4-17-3(b) provides that an ALJ’s decision as to unemployment benefits “*shall* be deemed to be the final decision of the review board, unless within fifteen (15) days after the date of notification or mailing of such decision, an appeal is taken ... to the review board.” (Emphasis supplied). “[S]trict compliance with the [deadline] is a condition precedent to the acquiring of jurisdiction, and non-compliance ... results in dismissal of the appeal.” *Szymanski*, 656 N.E.2d at 293.

[9] Here, it is undisputed that Z.T. filed her appeal with the Review Board well beyond fifteen days following notification of the ALJ’s decision. As a result, the Review Board had no jurisdiction to review that decision, which had become final already. We, therefore, conclude that the Review Board properly dismissed Z.T.’s untimely appeal.

[10] Judgment affirmed.

Brown, J. and Tavitas, J., concur.