

STATE OF MAINE

KENNEBEC, ss.

WILLIAM S. NEAGLEY,

Appellant

v.

MAINE UNEMPLOYMENT
INSURANCE COMMISSION,

Respondent

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-05-36

SKS-KEN-9/7/06

DECISION ON APPEAL

This matter comes before the court on the petition of William Neagley for review of final agency action pursuant to M.R. Civ. P. 80C. Both the appellant and the appellee made written submissions to the court outlining their arguments, and the matter was scheduled for oral argument on August 8, 2006. Due to his present residence in Pennsylvania, the appellant did not appear for argument but requested that the court decide the matter on briefs.

In October and November of 2004, Neagley was unemployed, but enrolled in an approved training program in Maine. In order to collect unemployment benefits, he was required to submit a claim form for each week he wished to claim benefits. He was required to submit the claim form within 14 days of the end of the week for which he was seeking benefits; an extra seven days was allowed for good cause shown. Neagley takes the position that although he submitted the claim forms late for the period of October 23 to November 20, 2004, he should nevertheless be entitled to unemployment benefits for those weeks.

Discussion

It is clear as a matter of law that applicants for unemployment benefits must make timely application within the established period. The provisions of 26 M.R.S.A. § 1192(1) include the provision that eligibility to receive benefits depends upon making a claim for such benefits in accordance with the Commission's regulations. The Commission's regulations or rules establish the procedure that when filing an application by mail, the claim card must have been postmarked no later than 14 days from the end of the week being claimed. Or, stated differently, no claims are allowed if the claim card is filed beyond the 14-day period or an additional seven days if good cause is found.

There is no factual dispute that the petitioner failed to file the claim forms within the required period. The petitioner's explanation for this lateness appears to be that he had been late in sending cards in in the past without penalty, that he was in school under an approved program and "that it's no big deal" if the cards are not filed in a timely fashion. *See* Record at 28. The petitioner does not argue that he was unaware of the time limits. Also, the administrative hearing officer found no evidence that he was misled by the Bureau. *See* Record at 16.

While the petitioner's delay in submitting the claim forms seems inadvertent, and based upon a good-faith belief that he was following necessary procedures, he did not follow the required procedures. Therefore, the petitioner's untimely filing of his claim cards would not entitle him to benefits for the weeks in question. The court finds that the Commission's decision was supported by substantial evidence of record, was not an error of law and was within its discretion.

For the reasons stated, the entry will be:

The Commission's decision is AFFIRMED.

Dated: September 7, 2006



S. Kirk Studstrup
Justice, Superior Court

Date Filed 5/15/05 Kennebec County Docket No. AP05-36

Action Petition for Review
80C

J. STUDSTRUP

William S. Neagley vs. Maine Unemployment Insurance Commission

Plaintiff's Attorney
William S. Neagley, Pro Se
892 Veterans Way
Elliottsburg, PA 17024

Defendant's Attorney
Kelly L. Turner, AAG
6 State House Station
Augusta, Maine 04333-0006

Date of Entry	
6/15/05	Petition for Review, filed. s/Neagley, Pro Se
10/27/05	Respondent's Motion to Dismiss Appeal as Untimely, filed. s/turner, AAG
11/23/05	Respondent Maine Unemployment Insurance Commission's Withdrawal of Motion to Dismiss and Motion for Enlargement of Time to File Record, filed. s/Turner, AAG Proposed Order, filed.
11/28/05	ORDER, STUDSTRUP, J. Respondent shall file the administrative records on or before December 21, 2005. Copies mailed to Pltf. and atty.
12-16-05	Received and filed by AAG Kelly Turner, for respondent, the Administrative Record.
12/20/05	Notice of briefing schedule mailed to atty and Pltf.
1/27/06	Petitioner's Brief, filed. s/Neagley, Pro Se
2/17/06	Brief of Respondent Maine Unemployment Insurance Commission, filed. s/Turner, AAG
6/1/06	Oral arguments scheduled for 6/8/06 are cancelled. To be rescheduled. Copy of notice mailed to parties.
8/4/06	Letter requesting case to be continued., filed. s/Neagley, Pro Se
8//8/06	Hearing had, Studstrup, J. Case to be decided on the memos.
9/8/06	DECISION ON APPEAL, Studstrup, J. The Commission's decision is AFFIRMED. Copies mailed to Pltf. and atty of record. Notice of removal of record mailed.