



B.B. discussed the matter with G.B.'s father, and B.B. kept D.F. away from G.B. D.F. and B.B. continued to discuss the matter and D.F. was convinced that another incident would not occur. In August 2004, D.F. began living with B.B. and G.B. In June 2005, all three moved to Pennsylvania. B.B. stated that she kept the lines of communication open with G.B. regarding what had happened with D.F. by asking her how things were going as well as talking to D.F. On November 12, 2005, B.B. questioned G.B. after she had been out bowling with D.F. and suspected that something was wrong. G.B. confirmed that D.F. had touched her inappropriately. At that time, G.B. was nine years old. B.B. reported the touching to the Department of Human Services (DHS) and told D.F. to leave their home. D.F. moved out immediately. B.B. was interviewed by the Philadelphia Police Department as was G.B. D.F. was criminally charged as a result of the allegations.

DHS social worker Rosemarie Jackson (Jackson) investigated the report and placed B.B. on the ChildLine Registry in the "indicated" status as a child abuser. G.B. was named as the subject child of a CPS Report. Jackson spoke with B.B., G.B. and a police detective during her investigation. B.B. admitted to Jackson that she was aware of a previous "touching" in 2002 between D.F. and G.B. while they were living in Florida. Based on her investigation, Jackson filed an indicated report of child abuse listing B.B. as a perpetrator of abuse by omission because she failed to protect G.B.

B.B. requested that the case against her be expunged, but that request was denied. She filed an appeal with DPW's Bureau of Hearings and Appeals, and a hearing was held before an ALJ at which B.B. testified. The matter was initially

decided in B.B.'s favor by the ALJ by order dated May 9, 2007. That order specified that an appeal could be taken from that order within 15 days from the date of the order, meaning that an appeal had to be filed by May 24, 2007. However, DHS filed its appeal requesting reconsideration on May 25, 2007. B.B. filed an answer alleging that DHS filed an untimely appeal because it had missed the filing deadline by one day. The Bureau issued a final order dated July 11, 2007, reversing the decision of DHS and denying B.B.'s appeal because B.B. had put G.B. at risk, but failing to address whether DHS had filed an untimely appeal.

B.B. then filed this appeal<sup>1</sup> arguing, among other things, that DHS' application for reconsideration was untimely and should not even have been considered by DPW. Because it was filed one day late, she argues that the ALJ's decision sustaining her appeal and expunging her name from the ChildLine registry should have been upheld. Because B.B. filed a response to DPW's granting of DHS' request for reconsideration in which she specified that DHS filed its petition late and she objected to that late filing, and DPW should have addressed that response but did not and instead simply issued a final order in the matter, the final order is vacated and the matter is remanded so that DPW may respond to the issue of the timeliness of DHS' request for reconsideration.

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DAN PELLEGRINI, JUDGE

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<sup>1</sup> Our scope of review in an appeal from the Bureau's order is limited to determining whether constitutional rights were violated, an error of law was committed, or DPW abused its discretion. *Sanner v. Department of Public Welfare*, 878 A.2d 947 (Pa. Cmwlth. 2005).

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

B.B. (In Re: G.B.),	:
Petitioner	:
	:
v.	: No. 1557 C.D. 2007
	:
Department of Public Welfare,	:
Respondent	:

**ORDER**

AND NOW, this 24<sup>th</sup> day of January, 2008, the order of the Department of Public Welfare, dated July 11, 2007, is vacated and the matter is remanded to the Department to make findings and conclusions in accordance with this decision.

Jurisdiction relinquished.

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DAN PELLEGRINI, JUDGE