

IN THE UTAH COURT OF APPEALS

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Regina M. Gurunian,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner,)	
)	Case No. 20091026-CA
v.)	
)	F I L E D
)	(February 19, 2010)
Department of Workforce)	
Services, Workforce Appeals)	2010 UT App 44
Board, and Heritage Management)	
Services, Inc.,)	
)	
Respondents.)	

Original Proceeding in this Court

Attorneys: Regina M. Gurunian, Pleasant Grove, Petitioner Pro Se
Suzan Pixton, Salt Lake City, for Respondent
Workforce Appeals Board

Before Judges Thorne, Voros, and Greenwood.¹

PER CURIAM:

Regina M. Gurunian petitions for review of the Workforce Appeals Board's (the Board) decision affirming the Administrative Law Judge's (the ALJ) determination that she lacked jurisdiction to consider Gurunian's appeal of the denial of unemployment benefits. This matter is before the court on its own motion for summary disposition based on the lack of a substantial question for review.

The ALJ determined that she lacked jurisdiction over Gurunian's appeal from the denial of benefits because the appeal was untimely filed without good cause. A party may appeal the initial determination of benefits by filing an appeal with the Division of Adjudication "within ten days after the date of mailing" of the decision. Utah Code Ann. § 35A-4-406(3)(a) (2005). Under Department of Workforce Services rules, if the

¹The Honorable Pamela T. Greenwood, Senior Judge, sat by special assignment pursuant to Utah Code section 78A-3-102 (2008) and rule 11-201(6) of the Utah Rules of Judicial Administration.

decision was sent by mail, an additional five days will be added to the appeal time. See Utah Admin. Code R994-508-102(1). The decision denying benefits was mailed to Gurunian on August 11, 2009. Consistent with the rule, the decision specified that any appeal must be filed by August 26, fifteen days after mailing.

Gurunian filed her appeal by fax on August 27, 2009, one day late. An untimely filed appeal may be considered on its merits only if good cause for the filing delay is established. See id. R994-508-104. Good cause may be shown where

- (1) the appellant received the decision after the expiration of the time limit for filing the appeal, the appeal was filed within ten days of actual receipt of the decision and the delay was not the result of willful neglect;
- (2) the delay in filing the appeal was due to circumstances beyond the appellant's control;
- or
- (3) the appellant delayed filing the appeal for circumstances which were compelling and reasonable.

Id.

The ALJ determined that Gurunian had not shown good cause for her late filing. The ALJ noted that Gurunian was aware of the due date for the appeal. She did not call the Department for further instruction before the appeal was late. Although she had computer problems, the computer was operational on the last day for filing a timely appeal. She could have rewritten a statement or filed a cursory appeal before the time ran out, but she failed to do so. Overall, the ALJ found that Gurunian did not show that she was prevented from timely filing an appeal. The Board adopted the ALJ's findings in its decision affirming that the ALJ lacked jurisdiction to consider Gurunian's appeal.

Gurunian has not shown that the ALJ erred in its determination. She asserts that she was under the impression that the late filing was acceptable after speaking with an employee on August 27. However, a telephone call made after the deadline had already passed does not constitute good cause for missing the filing deadline. Gurunian does not identify any specific error in the ALJ's findings supporting the lack of good cause. Rather, she primarily argues the merits of her appeal and

the circumstances under which she quit her employment. As a result, she has failed to present a substantial question for review warranting further proceedings by this court.

Affirmed.

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge

Pamela T. Greenwood, Senior Judge