

IN THE UTAH COURT OF APPEALS

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Michael C. Martin,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Petitioner,	)	
	)	Case No. 20090883-CA
v.	)	
	)	
<u>Department of Workforce</u>	)	F I L E D
<u>Services, Workforce Appeals</u>	)	(January 14, 2010)
<u>Board</u> and CR England, Inc.,	)	
	)	2010 UT App 6
Respondent.	)	

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Original Proceeding in this Court

Attorneys: Michael C. Martin, Salt Lake City, Petitioner Pro Se  
            Suzan Pixton, Salt Lake City, for Respondent

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Before Judges Davis, Thorne, and Voros.

PER CURIAM:

Michael C. Martin petitions for review of the final order of the Workforce Appeals Board (the Board), which determined that it lacked jurisdiction to consider the merits of his appeal. This matter is before the court on its sua sponte motion for summary disposition based on the lack of a substantial question for review.

The administrative law judge (ALJ) issued its decision on June 3, 2009.<sup>1</sup> The ALJ's decision indicated that if Martin sought to appeal the decision, he needed to file an appeal with the Board within thirty days of June 3, 2009. Therefore, Martin was required to file his appeal on or before July 3, 2009. However, the Board's offices were closed that day. Accordingly, the appeal needed to be filed by Monday, July 6, 2009. The Board

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<sup>1</sup>The ALJ determined that Martin had not timely appealed the Department of Workforce Services' denial of his claim for unemployment benefits. Specifically, Martin filed his appeal of the Department's denial of benefits six days late. The ALJ also determined that Martin had failed to show good cause as to why his appeal was untimely.

did not receive Martin's appeal until July 7, 2009. The Board determined that Martin had not timely filed his appeal from the decision of the ALJ. It also determined that Martin had failed to demonstrate good cause for untimely filing the appeal. As a result, the Board determined that it did not have jurisdiction to resolve Martin's appeal.

Good cause for delay in filing an appeal is limited to circumstances where the claimant received the determination after the appeal time had run, the delay was caused by circumstances beyond the claimant's control, or the claimant filed late under circumstances that were compelling and reasonable. See Utah Admin. Code R994-508-104. Martin claimed that he attempted to file his appeal by hand on July 3, 2009, but the Board's office was closed. Accordingly, he placed the appeal in the mail, believing he would be afforded three extra days for mailing. The Board determined that Martin knew or should have known that the appeal needed to be filed by July 6, 2009, but Martin elected to trust the mail system instead of hand delivering his appeal or faxing it to the Board. Accordingly, the Board found that Martin did not have good cause for untimely filing his appeal. The Board did not abuse its discretion in so finding. See *Armstrong v. Department of Employment Sec.*, 834 P.2d 562, 567 (Utah Ct. App. 1992) (determining that a party who filed an appeal one day late because she confused working days and calendar days did not demonstrate good cause for the untimely filing). Because Martin failed to demonstrate that he had good cause for the late filing, the Board lacked jurisdiction to hear the appeal. See Utah Admin. Code. R994-508-103; *Autoliv ASP, Inc. v. Department of Workforce Servs.*, 2000 UT App 223, ¶ 12, 8 P.3d 1033.

Affirmed.

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James Z. Davis,  
Presiding Judge

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William A. Thorne Jr., Judge

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J. Frederic Voros Jr., Judge