

IN THE UTAH COURT OF APPEALS

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Jake L. Naylor,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner,)	
)	Case No. 20100839-CA
v.)	
)	F I L E D
Department of Workforce)	(December 30, 2010)
Services,)	
)	2010 UT App 395
Respondent.)	

Original Proceeding in this Court

Attorneys: Jake L. Naylor, Grantsville, Petitioner Pro Se
 Jaceson R. Maughan, Salt Lake City, for Respondent

Before Judges Thorne, Voros, and Christiansen.

PER CURIAM:

Jake L. Naylor appeals the Workforce Appeal Board's (the Board) October 6, 2010 decision. This matter is before the court on a sua sponte motion for summary disposition. We affirm.

The Board determined that Naylor was not prevented from appearing at previously scheduled hearings due to circumstances beyond his control, or due to excusable neglect.¹ Utah Code section 63G-4-209(1) provides that an order of default may be entered against a party if the party fails to attend or participate in a properly scheduled hearing after receiving appropriate notice. See Utah Code Ann. § 63G-4-209(1) (2008). After a default is entered, a request to reopen the hearing will be granted if the party was prevented from appearing at the hearing due to circumstances beyond the party's control. See Utah Admin. Code R994-508-118(1). A request may also be granted if a party fails to participate due to excusable neglect. See id. R994-508-118(2).

¹The October 6, 2010 decision also affirmed the overpayment and penalty in the sum of \$508. On appeal, Naylor does not dispute the Board's decision regarding the overpayment and penalty.

This court will reverse an administrative agency's findings of fact "only if the findings are not supported by substantial evidence." Drake v. Industrial Comm'n, 939 P.2d 177, 181 (Utah 1997). We will not disturb the Board's conclusion regarding the application of law to facts unless it "exceeds the bounds of reasonableness and rationality." Nelson v. Department of Emp't Sec., 801 P.2d 158, 161 (Utah Ct. App. 1990).

The record contains substantial evidence supporting the Board's determination that Naylor was not prevented from appearing at the hearings before the Administrative Law Judge due to circumstances beyond his control or due to excusable neglect. A claimant has an obligation to be diligent in reading the instructions contained in the hearing notices. See Utah Admin. Code R994-406-401(1)(b). Naylor was provided multiple opportunities to present evidence at a hearing, but he failed to participate in a hearing due to his failure to follow the instructions in the hearing notices. The Board also determined that Naylor's claim that he did not receive a third notice was not credible. The Board's findings are supported by substantial evidence, and the Board's conclusions do not exceed the bounds of reasonableness and rationality.

Accordingly, the Board's October 6, 2010 decision is affirmed.

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge

Michele M. Christiansen, Judge