

COMMONWEALTH COURT OF PENNSYLVANIA

J.C. Gisler v. Unemployment Compensation Board of Review

Gisler · No. No. 991 C.D. 2019 · Decided May 8, 2020

SUMMARY

The Commonwealth Court of Pennsylvania affirmed the Unemployment Compensation Board of Review's dismissal of Joanne C. Gisler's appeal as untimely under Section 501(e) of the Pennsylvania Unemployment Compensation Law. The court held that Gisler failed to establish fraud, an administrative breakdown, or non-negligent conduct warranting nunc pro tunc relief.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	P. Kevin Brobson; Patricia A. McCullough; J. Andrew Crompton
JURISDICTION	Pennsylvania
DECIDED	May 8, 2020
DOCKET	No. 991 C.D. 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of an order of the Unemployment Compensation Board of Review affirming a referee's determination that Gisler's appeal from a service-center determination was untimely.
STANDARD OF REVIEW	The Court determines whether constitutional rights were violated, an error of law was committed, or necessary findings of fact are supported by substantial evidence. The Board's findings are conclusive when supported by substantial evidence, and the Board is the ultimate factfinder with authority to resolve credibility and evidentiary conflicts.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion; not reported.
PARTIES	Joanne C. Gisler v. Unemployment Compensation Board of Review

TOPICS

unemployment benefits

appellate procedure

standard of review

administrative law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether substantial evidence supported the Board's finding that Gisler received the notice of determination and understood the appeal deadline.
2. Whether Gisler established fraud, an administrative breakdown, or non-negligent conduct beyond her control sufficient to permit a nunc pro tunc appeal from the untimely unemployment-compensation appeal.

HOLDINGS

1. Substantial evidence supported the Board's finding that Gisler received the notice of determination and understood that April 1, 2019, was the deadline for appeal.
2. The fifteen-day appeal period under Section 501(e) of the Unemployment Compensation Law is mandatory and jurisdictional. Gisler was not entitled to a nunc pro tunc appeal because she failed to prove that fraud, an administrative breakdown, or non-negligent conduct beyond her control caused the delay.

KEY QUOTATIONS

“Appeal periods, even at the administrative level, are jurisdictional and may not be extended as a matter of grace or indulgence; otherwise, there would be no finality to judicial action.” (7)

“As Claimant’s appeal to the Referee was untimely, the merits of her appeal, challenging the Service Center’s determination of ineligibility due to willful misconduct, is not before us.” (8)

FACTUAL BACKGROUND

Gisler applied for unemployment compensation benefits after being discharged from her bookkeeper position for alleged dishonesty. The Service Center mailed a notice on March 15, 2019, denying benefits and expressly stating that April 1, 2019, was the appeal deadline. Gisler received and understood the notice but did not appeal until April 26, 2019; she claimed that a Service Center representative had told her not to worry about appealing, but the Board discredited that testimony.

PROCEDURAL HISTORY

The Service Center denied Gisler unemployment compensation benefits under Section 402(e) of the Pennsylvania Unemployment Compensation Law. Gisler filed an appeal twenty-five days after the statutory deadline, and the referee dismissed it as untimely. The Board affirmed, adopting the referee's findings and conclusions, and Gisler petitioned the Commonwealth Court for review.

DISPOSITION

affirmed

CASES CITED

- Johnson v. Unemployment Comp. Bd. of Review, 502 A.2d 738, 740 (Pa. Cmwlth. 1986)
- Taylor v. Unemployment Comp. Bd. of Review, 378 A.2d 829, 831 (Pa. 1977)
- Penflex, Inc. v. Bryson, 485 A.2d 359, 365 (Pa. Cmwlth. 1984)
- Peak v. Unemployment Comp. Bd. of Review, 501 A.2d 1383, 1388 (Pa. 1985)
- DeRiggi v. Unemployment Comp. Bd. of Review, 856 A.2d 253, 255 (Pa. Cmwlth. 2004)
- Miller v. Unemployment Comp. Bd. of Review, 405 A.2d 1034, 1036 (Pa. Cmwlth. 1979)
- Tapco, Inc. v. Unemployment Comp. Bd. of Review, 650 A.2d 1106, 1108-09 (Pa. Cmwlth. 1994)
- Johnson v. Unemployment Comp. Bd. of Review, 504 A.2d 989, 990 (Pa. Cmwlth. 1986) (en banc)
- Constantini v. Unemployment Comp. Bd. of Review, 173 A.3d 838, 844 (Pa. Cmwlth. 2017)
- Dumberth v. Unemployment Comp. Bd. of Review, 837 A.2d 678, 681 (Pa. Cmwlth. 2003) (en banc)
- Moss v. Unemployment Comp. Bd. of Review, 557 A.2d 839, 839-840 (Pa. Cmwlth. 1989)
- Union Elec. Corp. v. Bd. of Prop. Assessment, Appeals & Review of Allegheny Cty., 746 A.2d 581, 584 (Pa. 2000)
- Lopresti v. Unemployment Comp. Bd. of Review, 55 A.3d 561, 563 (Pa. Cmwlth. 2012)
- Hessou v. Unemployment Comp. Bd. of Review, 942 A.2d 194, 198 (Pa. Cmwlth. 2008)