

COMMONWEALTH COURT OF PENNSYLVANIA

Wright v. Unemployment Compensation Board of Review

41 A.3d 58 (Pa. Commw. Ct. 2011) · No. No. 2739 C.D. 2010 · Decided December 16, 2011

SUMMARY

The Commonwealth Court of Pennsylvania reviewed whether Isaac J. Wright timely appealed a determination denying unemployment compensation benefits. The court held that the Unemployment Compensation Board of Review capriciously disregarded competent evidence that Wright faxed his appeal on July 9, 2010, before the filing deadline, and reversed and remanded for consideration of the employer's appeal on the merits.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Judge Brobson; Leadbetter, President Judge; McGinley, Judge; Cohn Jubelirer, Judge; Leavitt, Judge; Brobson, Judge; McCullough, Judge; Butler, Judge
JURISDICTION	Pennsylvania
DECIDED	December 16, 2011
DOCKET	No. 2739 C.D. 2010
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Claimant appealed to the Commonwealth Court from the Unemployment Compensation Board of Review's decision dismissing his appeal from a notice of determination as untimely. The Board had reversed the referee, who found that Claimant timely filed his appeal and was entitled to benefits.
STANDARD OF REVIEW	Because Claimant bore the burden of proving the timeliness of his appeal and was the only party to present evidence on that issue, the Court reviewed whether the Board capriciously disregarded competent evidence, violated constitutional rights, or committed an error of law.
PRECEDENTIAL VALUE	Published, precedential decision of the Commonwealth Court of Pennsylvania
PARTIES	Isaac J. Wright v. Unemployment Compensation Board of Review

TOPICS

unemployment benefits

administrative law

appellate procedure

standard of review

PRACTICE AREAS

employment law

administrative law

unemployment compensation

QUESTIONS PRESENTED

1. Whether the Board erred by finding Wright's appeal untimely based solely on the August 11, 2010 date stamp on a later copy of the appeal.
2. Whether the Board capriciously disregarded competent, unrebutted evidence that Wright's appeal was successfully transmitted and received by fax on July 9, 2010.
3. Whether Wright's July 9, 2010 fax constituted a timely appeal under 34 Pa. Code § 101.82(b)(3).

HOLDINGS

1. The Board capriciously disregarded competent evidence by ignoring the unrebutted testimony and supporting records showing that Wright transmitted his appeal by fax on July 9, 2010.
2. Wright timely filed his appeal because the evidence credited by the referee established that his fax appeal was transmitted and received on July 9, 2010, before the July 13 deadline.

KEY QUOTATIONS

“A fax transmission is timely filed if it is received by the Department appeal office, workforce investment office or Board before midnight on the last day of the appeal period in accordance with this subsection.” (66)

“Under the Department's regulation, an appeal by fax is timely if it is received before the deadline.” (67)

FACTUAL BACKGROUND

The UC Service Center issued a notice of determination denying Wright benefits on June 28, 2010, with a July 13, 2010 appeal deadline. Wright and his father testified that the appeal was faxed on July 9, 2010, and transmission records from the sender's telephone/fax carrier supported that testimony. The Board relied on an August 11, 2010 date stamp on a later copy of the appeal and failed to address the evidence supporting the earlier July 9 transmission.

PROCEDURAL HISTORY

The Altoona UC Service Center issued a notice denying Wright unemployment compensation benefits and stated that July 13, 2010, was the appeal deadline. The referee found that Wright had transmitted his appeal by fax on July 9, 2010, found the appeal timely, and awarded benefits. The Board sua sponte determined that the appeal was untimely based on an August 11, 2010 receipt stamp, dismissed the appeal without reaching the merits of the employer's challenge, and Wright appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Unemployment Compensation Board of Review was directed to decide the merits of the employer's appeal from the referee's decision awarding benefits. Jurisdiction was relinquished.

CASES CITED

- Russo v. Unemployment Compensation Board of Review, 13 A.3d 1000, 1002-03 (Pa. Commw. Ct. 2010)
- Cumberland Valley Animal Shelter v. Unemployment Compensation Board of Review, 881 A.2d 10, 12-13 (Pa. Commw. Ct. 2005)
- McKenna v. Unemployment Compensation Board of Review, 981 A.2d 415, 417 n. 4 (Pa. Commw. Ct. 2009)
- Jackson v. Unemployment Compensation Board of Review, 933 A.2d 155, 156 n. 4 (Pa. Commw. Ct. 2007)
- Mountain Home Beagle Media v. Unemployment Compensation Board of Review, 955 A.2d 484 (Pa. Commw. Ct. 2008)