

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
THIRD JUDICIAL DEPARTMENT

Matter of the Claim of Matthew R. Cerick

Matter of Cerick · No. 518365 · Decided September 18, 2014

SUMMARY

The New York Supreme Court, Appellate Division, Third Department reversed an Unemployment Insurance Appeal Board decision denying Matthew R. Cerick's application to reopen a default decision. The court held that the Board abused its discretion because the claimant and employer had jointly requested an adjournment based on a tentative settlement and reasonably believed that they were not required to appear. The matter was remitted to the Board for consideration on the merits.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Judicial Department
WRITING FOR THE COURT	Lahtinen, J.P.; Stein, J.; Garry, J.; Rose, J.; Devine, J.
JURISDICTION	New York
DECIDED	September 18, 2014
DOCKET	518365
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Claimant appealed from a decision of the Unemployment Insurance Appeal Board that, among other things, denied his application to reopen a prior default decision and sustained the determination finding him ineligible for unemployment insurance benefits.
STANDARD OF REVIEW	Whether to reopen a default decision is reviewed for abuse of the Unemployment Insurance Appeal Board's sound discretion.
PRECEDENTIAL VALUE	published
PARTIES	Matthew R. Cerick v. Commissioner of Labor

TOPICS

- unemployment benefits
- administrative law
- judicial review of agency action
- appellate procedure
- standard of review

PRACTICE AREAS

administrative law

employment law

unemployment benefits

appellate procedure

QUESTIONS PRESENTED

1. Whether the Unemployment Insurance Appeal Board abused its discretion by denying claimant's application to reopen the August 2011 default decision.
2. Whether the circumstances surrounding the jointly requested adjournment established good cause for claimant's failure to appear at the hearing.

HOLDINGS

1. A party seeking to reopen a default decision must demonstrate good cause for the default, and the determination whether to reopen is reviewed for abuse of the Unemployment Insurance Appeal Board's discretion.
2. Claimant demonstrated good cause because claimant's counsel and the employer's counsel jointly requested an adjournment based on a tentative settlement, and both sides reasonably, though mistakenly, assumed that appearing at the hearing was unnecessary; the Board therefore abused its discretion by refusing to reopen the default decision.

KEY QUOTATIONS

"It is axiomatic that the party seeking to reopen a decision must demonstrate good cause for the default" (at 2)

"In light of these circumstances, we find that the August 2011 default decision should have been reopened" (at 3)

FACTUAL BACKGROUND

The Department of Labor found claimant ineligible for unemployment benefits effective May 5, 2011, concluding that he voluntarily left employment without good cause. Before the August 2011 hearing, claimant's counsel and the employer's counsel jointly requested an adjournment by fax because they had reached a tentative settlement. Neither claimant nor the employer appeared, and a default decision was issued after the parties apparently assumed in good faith that their appearance was unnecessary.

PROCEDURAL HISTORY

The Department of Labor initially determined that claimant was ineligible for benefits because he voluntarily left employment without good cause. After claimant and the employer failed to appear at a scheduled hearing, the ALJ issued a default decision. The Unemployment Insurance Appeal Board dismissed claimant's administrative appeal and remitted the matter to the ALJ to treat it as an application to reopen the default decisions. On remittal, the ALJ denied reopening of the August 2011 default decision and sustained the initial determination, and the Board upheld that decision.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remitted to the Unemployment Insurance Appeal Board for consideration on the merits and further proceedings not inconsistent with the court's decision.

CASES CITED

- Matter of Tavares [Commissioner of Labor], 118 AD3d 1243, 1244 (2014)
- Matter of Lee [Commissioner of Labor], 84 AD3d 1652, 1653 (2011)
- Matter of Childs [Kaleida Health–Commissioner of Labor], 69 AD3d 1070, 1071 (2010), lv dismissed, 18 NY3d 837 (2011)
- Matter of Romano [Buffalo Bd. of Educ.-Commissioner of Labor], 256 AD2d 845, 845 (1998)
- Matter of Cedenio [Commissioner of Labor], 83 AD3d 1350, 1351 (2011)

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