

COMMONWEALTH COURT OF PENNSYLVANIA

Carson Helicopters, Inc. v. Unemployment Compensation Board of Review

960 A.2d 524 (Pa. Commw. Ct. 2008) · No. No. 253 C.D. 2008 · Decided November 14, 2008

SUMMARY

The Commonwealth Court of Pennsylvania held that an employer's appeal from a referee's unemployment compensation decision was timely. The court found that the referee's incorrect mailing date created an administrative breakdown and that the appeal, filed before the corrected statutory deadline, should not have been dismissed; it reversed and remanded for consideration of the merits.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Leavitt, Judge; Pellegrini, Judge; McCloskey, Senior Judge
JURISDICTION	Pennsylvania
DECIDED	November 14, 2008
DOCKET	No. 253 C.D. 2008
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Employer petitioned for review of the Unemployment Compensation Board of Review's adjudication dismissing Employer's appeal from a referee's decision as untimely.
STANDARD OF REVIEW	Review is limited to whether constitutional rights were violated, an error of law was committed, or the Board's findings of fact were supported by substantial evidence. The Board is the ultimate fact-finder, and its findings are conclusive on appeal when supported by substantial evidence in the record as a whole.
PRECEDENTIAL VALUE	precedential
PARTIES	Carson Helicopters, Inc. v. Unemployment Compensation Board of Review

TOPICS

unemployment benefits

administrative law

appellate procedure

judicial review of agency action

standard of review

PRACTICE AREAS

Unemployment compensation

Administrative law

Appellate procedure

QUESTIONS PRESENTED

1. Whether Employer's appeal to the Unemployment Compensation Board of Review was timely when the referee's decision contained an obviously erroneous mailing date.
2. Whether the postmarked envelope and other official records established the correct mailing date and appeal deadline.
3. Whether the Board erred in dismissing Employer's appeal as untimely rather than considering the merits.

HOLDINGS

1. Employer's appeal was timely because the referee's stated October 24 mailing date was impossible and the appeal filed on November 9 was received before the earliest possible statutory deadline.
2. Postmark evidence may be relied upon to correct an obvious notation error in the mailing date on a referee's decision and to establish the correct appeal deadline.
3. The Board erred by dismissing Employer's appeal as untimely; the matter must be remanded for consideration of the merits of the appeal.

KEY QUOTATIONS

"It follows that postmark evidence can be relied upon to correct an obvious notation error on a referee's decision to establish the correct deadline for an appeal." (527)

"The Board's conduct in this manner was not only sloppy but shocking in its disregard of its statutory responsibilities." (528)

FACTUAL BACKGROUND

A referee conducted an unemployment compensation hearing on October 29, 2007, but the resulting decision listed October 24, 2007, as its mailing date. The decision therefore stated November 8 as the appeal deadline, although the decision could not have been mailed before the October 29 hearing and the envelope was postmarked October 31. Employer received the decision on November 9 and filed its appeal that day, before the earliest possible statutory deadline of November 13 and before the deadline calculated from the October 31 postmark, November 15.

PROCEDURAL HISTORY

The Unemployment Compensation Service Center determined that Claimant voluntarily quit and was ineligible for benefits under Section 402(b) of the Unemployment Compensation Law. A referee reversed that determination, but the decision contained an incorrect mailing date that caused the stated appeal deadline to be

miscalculated. Employer appealed after receiving the decision, and the Board dismissed the appeal as untimely. The Commonwealth Court reversed and remanded for consideration of the merits of Employer's appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Unemployment Compensation Board of Review must consider the merits of Employer's appeal.

CASES CITED

- United States Postal Service v. Unemployment Compensation Board of Review, 620 A.2d 572, 573 (Pa. Commw. Ct. 1993)
- Union Electric Corp. v. Board of Property Assessment, Appeals & Review of Allegheny County, 746 A.2d 581, 584 (Pa. 2000)
- Raichle v. Unemployment Compensation Board of Review, 535 A.2d 694, 696 (Pa. Commw. Ct. 1988)
- Lee Hospital v. Unemployment Compensation Board of Review, 637 A.2d 695, 697 (Pa. Commw. Ct. 1994)
- Hessou v. Unemployment Compensation Board of Review, 942 A.2d 194, 198 (Pa. Commw. Ct. 2008)