

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

Matter of Highgate Hotels, L.P. (Commissioner of Labor)

2026 NY Slip Op 01831 (N.Y. Ct. App. 2026) · No. CV-24-1933 · Decided March 26, 2026

SUMMARY

The Appellate Division, Third Department, affirmed a decision of the Unemployment Insurance Appeal Board holding that Highgate Hotels, L.P.'s request for a hearing to challenge an unemployment insurance contribution determination was untimely. The court held that notice sent to Highgate's designated representative satisfied the statutory notice requirement and declined to apply equitable estoppel.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Mackey, J.; Garry, P.J.; Aarons, J.; Ceresia, J.; Fisher, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	March 26, 2026
DOCKET	CV-24-1933
DISPOSITION	affirmed
PROCEDURAL POSTURE	Highgate Hotels appealed from a decision of the Unemployment Insurance Appeal Board holding that its request for a hearing to challenge an unemployment-insurance contribution determination was untimely.
STANDARD OF REVIEW	The court reviewed the Unemployment Insurance Appeal Board's determination and affirmed it where substantial evidence supported the finding that the hearing request was untimely.
PRECEDENTIAL VALUE	Published
PARTIES	Highgate Hotels, L.P. 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 Highgate's September 2023 request for a hearing was timely under Labor Law § 620(2) when the Department mailed the determination to Highgate's designated representative in November 2022.
2. Whether the Department should be equitably estopped from asserting the untimeliness of Highgate's hearing request.

HOLDINGS

1. Highgate's September 2023 request for a hearing was untimely because Labor Law § 620(2) requires an employer to request a hearing within 30 days after mailing or personal delivery of the determination, and Highgate offered no evidence that Equifax did not receive the November 2022 notice.
2. This case did not present the rare circumstances warranting equitable estoppel against the Department's assertion that Highgate's hearing request was untimely.

KEY QUOTATIONS

"[a]ny employer who claims to be aggrieved by the . . . determination of the amount of the employer's contributions . . . may apply to the commissioner for a hearing within [30] days after mailing or personal delivery of notice of such determination." (*1)

"[T]he statutory time period in which to request a hearing is to be strictly construed, and the statute contains no provision permitting an extension of time in which an employer can request a hearing" (*1)

FACTUAL BACKGROUND

Highgate Hotels designated TALX UCM Services, Inc./Equifax as its representative for all unemployment-insurance matters and directed the Department of Labor to send correspondence to Equifax. The Department sent Equifax a November 22, 2022 notice assessing \$639,237.96 in additional contributions for 2020 through 2022 and advising that a hearing had to be requested in writing within 30 days. Highgate did not act until September 2023, after learning directly from the Department that contributions were overdue and that a levy had been enforced against one of its bank accounts.

PROCEDURAL HISTORY

The Department of Labor issued a November 22, 2022 notice of initial determination to Highgate's designated representative, Equifax, assessing \$639,237.96 in additional unemployment-insurance contributions. Highgate did not request a hearing within 30 days and later requested one in September 2023 after receiving direct notices concerning the arrearages and levy. An Administrative Law Judge rejected Highgate's objections as untimely, and the Unemployment Insurance Appeal Board affirmed. The Appellate Division affirmed the Board's decision.

DISPOSITION

affirmed

CASES CITED

- Matter of Sanon [Amazon Logistics, Inc.-Commissioner of Labor], 213 AD3d 1040, 1041-1042 (3d Dept 2023)
- Matter of Rago [Resource One, Inc.-Commissioner of Labor], 22 AD3d 1002, 1002 (3d Dept 2005)
- Matter of White [Lurie-Commissioner of Labor], 49 AD3d 932, 933 (3d Dept 2008)
- Matter of McKenzie [Strategic Delivery Solutions LLC-Commissioner of Labor], 142 AD3d 1271, 1272 (3d Dept 2016)
- Matter of Hickman [Maximum Litigation Support Servs., LLC-Commissioner of Labor], 111 AD3d 1000, 1000 (3d Dept 2013)
- Matter of B & V Contr. Enters., Inc. [Commissioner of Labor], 148 AD3d 1479, 1481-1482 (3d Dept 2017)
- Kirschner v KPMG LLP, 15 NY3d 446, 465-467 (2010)
- Center v Hampton Affiliates, 66 NY2d 782, 784-785 (1985)

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