

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pramod Kumar Negi,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 1754 C.D. 2014
	:	Submitted: March 27, 2015
Unemployment Compensation	:	
Board of Review,	:	
	:	
Respondent	:	

BEFORE: HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE MARY HANNAH LEAVITT, Judge
HONORABLE JAMES GARDNER COLINS, Senior Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION BY
SENIOR JUDGE COLINS**

FILED: June 10, 2015

Pramod Kumar Negi (Claimant) petitions, *pro se*, for review of the order of the Unemployment Compensation Board of Review (Board), which vacated the decision of the referee finding Claimant ineligible for benefits due to his failure to register for employment search services, and dismissed Claimant's appeal. We affirm the Board.

On April 22, 2014, Claimant filed an application for unemployment compensation benefits; however, Claimant did not make any claim for benefits thereafter. (Record Item (R. Item) 10, Board's Order.) On the twenty-first day after his application was filed, Claimant was issued a Form UC-1201 letter, reminding Claimant of the requirement under Section 401(b)(1)(i) of the

Pennsylvania Unemployment Compensation Law (Law)¹ and under 34 Pa. Code § 65.11(c)² that he register for employment search services within thirty days of filing an application for benefits. Claimant failed to register, and on May 27, 2014, the Allentown Unemployment Compensation Service Center (Center) issued a Notice of Determination disqualifying him from receiving benefits for the week ending May 24, 2014 and thereafter. (R. Item 2, Notice of Determination.)

Claimant then filed a Petition for Appeal, in which he indicates that the date of determination being appealed is “4/20/2014 to 5/4/2014.”³ (R. Item 3, Claimant’s Petition for Appeal w/Attachments.) Attached to Claimant’s Petition for Appeal is a letter from Claimant to the Center dated June 9, 2014, which states:

When I filed for unemployment benefit, I was told that my unemployment benefit is approved for two weeks.

¹ Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 801(b)(1)(i). Section 401 establishes the qualifications required to secure compensation, and Section 401(b)(1)(i) requires an employee to register for employment search services offered by the Pennsylvania CareerLink system or its successor agency within thirty days after the initial application for benefits.

² Under 34 Pa. Code § 65.11(c), a claimant who fails to timely register with the Pennsylvania CareerLink system will be ineligible for compensation for any week that ends more than thirty days after filing an application for benefits unless he or she registers by Sunday of that week.

³ On his Petition for Appeal, Claimant listed as his reason for disagreeing with the determination:

When I called, I was told that my unemployment is approved for two weeks. For further approval, I will have to call or file on-line. I was also told to register at Pennsylvania CareerLink, which I did. I found [a] job on 5/5/2014. I am appealing nonpayment of my initial claim from 4/20/14 to 5/4/14. Debit card was mailed to me but two weeks of payment was not added.

(Record Item 3, Claimant’s Petition for Appeal from Determination w/Attachments.)

For further approval I will have to call or file on-line. I was also told to register at Pennsylvania [C]areer[L]ink, which I did. I am employed from [May 5, 2014]. I am appealing nonpayment of benefits for the initial two weeks. Debit card was mailed to me but payment was not added to the card.

(*Id.*) The Notice of Determination is also attached to Claimant's Petition for Appeal. (*Id.*)

On June 16, 2014, Claimant was mailed a Notice of Hearing, to occur by telephone on July 1, 2014. The hearing took place as scheduled; however, Claimant was unavailable and did not participate. On July 3, 2014, the referee issued a decision and order affirming the determination of the Center. (R. Item 8, Referee's Decision and Order.) The referee reasoned that:

Because [Claimant] failed to register as required, [Claimant] is ineligible for benefits. Although [Claimant] filed a timely appeal from the [Center's] determination, [Claimant] did not appear and give any testimony before the Referee. [Claimant] was scheduled to testify by telephone, but he was not available when the Referee called him. The Referee called [Claimant] several times.

(*Id.*) Claimant appealed to the Board, again stating in an attached letter that he was appealing the nonpayment of benefits for "the initial two weeks from 4/20/2014 to 5/4/2014." (R. Item 9, Claimant's Petition for Appeal from Referee's Decision/Order w/Attachments.) Claimant's letter further states that he is not appealing the decision set forth in the Notice of Determination, but rather is appealing the non-payment of benefits. (*Id.*)

In a decision and order mailed August 18, 2014, the Board vacated both the Center's determination and the decision of the referee "in light of the fact that Claimant did not file any claim for benefits for the weeks at issue." (R. Item

10, Board's Order.) The Board noted that the record demonstrated that Claimant has not made a claim for benefits for weeks ending April 26 and May 3, 2014, and stated:

If [Claimant] wants to request payment for these weeks, he must contact his local UC Service Center and request backdating for these weeks. The Department will thereafter make a determination as to whether [Claimant] is entitled to such a backdating.

Claimant appealed to this Court for review.⁴

Under Section 401(c) of the Law, unemployment compensation benefits shall be payable to an employee who is unemployed and who has made a valid application for benefits *and* “has made a claim for compensation in the proper manner and on the form prescribed by the department.” 43 P.S. §801(c). Claimants are instructed to file an application by one of the prescribed methods, and are advised that after they have filed an initial application, they must file a claim for each week in which they are totally or partially unemployed.⁵ The instructions for filing biweekly claims advises claimants that a week for unemployment compensation purposes is a calendar week that begins Sunday and ends Saturday, and the date of the Saturday is called the compensable week ending (CWE) date. Claimants are further instructed that in most cases, they will file

⁴ In an unemployment compensation appeal, this Court's scope of review is limited to determining whether an error of law was committed, whether constitutional rights were violated, or whether necessary findings of facts are supported by substantial evidence. Section 704 of the Administrative Agency Law, 2 Pa. C.S. § 704; *Diehl v. Unemployment Compensation Board of Review (ESAB Group, Inc.)*, 57 A.3d 1209, 1216 (Pa. 2012).

⁵ Pennsylvania Department of Labor & Industry, Unemployment Compensation Benefits website at <http://www.portal.state.pa.us/portal/server.pt?open=514&objID=921880&mode=2> (last visited May 19, 2014).

claims for two weeks at a time, and that claims may be made online, by telephone, or in certain cases, by mailing a claim form.

Before this Court, Claimant argues that the Board erred in failing to grant him the two weeks of unemployment benefits he asserts were approved. However, Claimant does not contend that he made a claim for such benefits, and there is no evidence of record that he did so. In fact, the claim record shows that on April 22, 2014, Claimant was instructed to file a claim on May 4, 2014 for the claim weeks ending on April 26, 2014 and May 3, 2014. (R. Item 1, Claim Record.) Accordingly, as Claimant failed to make a claim for compensation in the proper manner, the Board was precluded from granting Claimant the relief he seeks, and acted properly in processing Claimant's letter as an appeal from the referee's decision. The Board properly advised Claimant that should he wish to request payment for the two weeks in which he was unemployed, he must contact his local Center and request backdating; the Center may then make a determination as to whether Claimant is entitled to such backdating.

The order of the Board is affirmed.

JAMES GARDNER COLINS, Senior Judge

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Unemployment Compensation	:
Board of Review,	:
	:
Respondent	:

ORDER

AND NOW, this 10th day of June, 2015, the Order of the Unemployment Compensation Board of Review in the above-captioned matter is hereby AFFIRMED.

JAMES GARDNER COLINS, Senior Judge