

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Nicole DeIeso, :  
Petitioner :  
 :  
v. : No. 1610 C.D. 2023  
 : Submitted: November 7, 2024  
Unemployment Compensation :  
Board of Review, :  
Respondent :

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge  
HONORABLE STACY WALLACE, Judge  
HONORABLE MARY HANNAH LEAVITT, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION  
BY SENIOR JUDGE LEAVITT

FILED: January 17, 2025

Nicole DeIeso (Claimant), *pro se*, petitions for this Court’s review of a September 19, 2023, adjudication of the Unemployment Compensation (UC) Board of Review (Board) that dismissed her appeal as untimely, thereby denying her unemployment benefits. The Board asserts that Claimant’s appeal to this Court was also untimely, and, thus, this Court lacks jurisdiction. We agree and quash Claimant’s petition for review

On May 8, 2022, Claimant filed for unemployment benefits after her separation from Sovereign Bank (Employer). On September 8, 2022, the UC Service Center determined that Claimant did not qualify for unemployment benefits because she quit her job for personal reasons. Claimant appealed, and the Referee scheduled a hearing on October 11, 2022.

Neither Claimant nor Employer appeared at the hearing. By decision of October 11, 2022, the Referee upheld the denial of the benefits. The decision

advised that the final date to appeal the Referee's decision to the Board was November 1, 2022. Referee Decision at 1; Certified Record at 73.

On November 4, 2022, Claimant filed her appeal electronically. On December 1, 2022, the Board advised Claimant that her appeal appeared to be untimely and that if she believed that the appeal was timely filed, she must reply in writing and request that a hearing be held to provide an opportunity for testimony regarding the timeliness of the appeal. The final date to respond was December 16, 2022, and Claimant sent her response on December 17, 2022.

By adjudication of September 19, 2023, the Board dismissed Claimant's appeal as untimely filed. The Board's adjudication advised Claimant that the final date to appeal the Board's decision to this Court was October 19, 2023.

On October 23, 2023, Claimant filed a petition for review with this Court.<sup>1</sup> By Order of February 9, 2024, this Court noted that Claimant's "appeal may be untimely" and directed the parties to "address whether the appeal is untimely in their principal briefs on the merits or in an appropriate application for relief." Memorandum and Order, 2/9/2024.

In her brief, Claimant does not address the timeliness of her appeal of the Board's adjudication to this Court. Instead, her brief explains that she missed the October 11, 2022, Referee hearing because she was attending a training class for her new employment. She missed the November 1, 2022, appeal deadline because she "did not understand the correct way to appeal the Referee's decision." Claimant Brief at 8. Claimant disputes the Board's assertion that she did not respond to the

---

<sup>1</sup> Our review of a Board adjudication determines whether an error of law was committed, constitutional rights were violated, or necessary findings of fact were supported by substantial evidence. *Frazier v. Unemployment Compensation Board of Review*, 833 A.2d 1181, 1183 n.4 (Pa. Cmwlth. 2003).

Board's letter on the untimeliness of her appeal until December 17, 2022. Claimant asserts that she responded on December 16, 2022, as directed. Although she "do[es] not have a receipt from [the United States Postal Service (USPS)]," she "hand-delivered the envelope to a USPS location" on that day and "witnessed the USPS employee stamp the front of the envelope" December 16, 2022. Claimant Brief at 9.

In response, the Board argues that Claimant's appeal to this Court was untimely, and she has not asserted or proven good cause for that late appeal. The Board urges this Court to dismiss the appeal.

We first consider whether this Court has jurisdiction over Claimant's appeal. An appeal of an agency adjudication must be filed within 30 days after entry of the order from which the appeal is taken. 42 Pa. C.S. §5571(b); *see also* PA.R.A.P. 1512(a)(1). An appellate court "may not enlarge the time for filing . . . a petition for review[.]" PA.R.A.P. 105(b). "The timeliness of an appeal and compliance with the statutory provisions which grant the right of appeal go to the jurisdiction of the court to hear and decide the appeal[.]" *Altieri v. Pennsylvania Board of Probation and Parole*, 495 A.2d 213, 214 (Pa. Cmwlth. 1985) (quoting *Iannotta v. Philadelphia Transportation Company*, 312 A.2d 475, 476 (Pa. Cmwlth. 1973)). *See also Cadogan Township Board of Supervisors v. Department of Environmental Resources*, 549 A.2d 1363, 1364 (Pa. Cmwlth. 1988) ("The time limit on filing an appeal is a jurisdictional limitation which mandates the quashing of untimely appeals.").

On September 19, 2023, the Board issued an adjudication dismissing Claimant's appeal as untimely. Claimant had until October 19, 2023, to petition for this Court's appellate review. Claimant filed her petition on October 23, 2023, after

the 30-day appeal period had expired. In her brief, Claimant does not address the untimeliness of her appeal to this Court, despite the fact that the Court ordered the parties to do so.

For these reasons, we quash Claimant's petition for review as untimely. Because we lack jurisdiction, we do not address her claim that she is entitled to unemployment benefits.

---

MARY HANNAH LEAVITT, President Judge Emerita

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Nicole DeIeso,	:	
Petitioner	:	
	:	
v.	:	No. 1610 C.D. 2023
	:	
Unemployment Compensation	:	
Board of Review,	:	
Respondent	:	

**ORDER**

AND NOW, this 17th day of January, 2025, Nicole DeIeso's petition for review is QUASHED as untimely filed.

---

MARY HANNAH LEAVITT, President Judge Emerita