

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Romeicka Williams,	:	
Petitioner	:	
	:	
v.	:	
	:	
Unemployment Compensation	:	
Board of Review,	:	Nos. 376-377 C.D. 2025
Respondent	:	Submitted: June 16, 2026

BEFORE: HONORABLE LORI A. DUMAS, Judge
HONORABLE STELLA M. TSAI, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION
BY JUDGE TSAI

FILED: September 3, 2026

Petitioner Romeicka Williams (Claimant) petitions for review of two identical orders of the Unemployment Compensation Board of Review (Board), dated February 18, 2025, both of which affirmed a decision by an unemployment compensation referee (Referee), dismissing Claimant's appeals as untimely under Section 501(e) of the Unemployment Compensation Law (Law).¹ For the reasons set forth below, we reverse.

I. BACKGROUND

Claimant was employed as a caretaker for Freedom at Home Homecare (Employer) from June 10, 2018, until her termination on August 28, 2020. Certified Record (C.R.) at CR014. On September 15, 2020, Claimant filed a claim for unemployment compensation benefits. Claimant filed for and received benefits for

¹ Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 821(e).

thirteen weeks before being incarcerated from December 2020 through December 2022 for charges arising from an unrelated incident. C.R. at CR090.

On October 6, 2021, Employer submitted a fact-finding questionnaire, contending that Claimant had voluntarily resigned from her position with Employer. C.R. at CR019. On October 14, 2021 more than a year after Claimant first filed for unemployment compensation benefits and nearly ten months after Claimant was incarcerated, the Pennsylvania Department of Labor and Industry, Office of Unemployment Compensation Benefits (Department), issued a Disqualifying Separation Determination concluding that Claimant she did not qualify for benefits because her separation from employment with Employer did not meet the requirements of Section 402(b) of the Law,² relating to voluntary resignation from employment without cause of a necessitous and compelling nature. C.R at CR024. Additionally, the Board issued a second determination—a Fault-Overpayment Determination—finding that Claimant was subject to a fault overpayment under Section 401(f) of the Law.³ The determinations were sent to an address for Claimant on 53rd Street in Philadelphia (Philadelphia Mailing Address) and provided that any appeal of the determinations must be filed by November 4, 2021. *Id.*

Claimant filed appeals of the Disqualifying Separation Determination and the Fault Overpayment Determination on October 8, 2024, alleging that she never received a letter informing her about these determinations and her appeal rights and explaining that she was incarcerated from December 2020 through December 2022. C.R. at CD045. Claimant provided supporting documentation regarding her

² 43 P.S. § 802(b).

³ 43 P.S. § 801(f).

sentence. C.R. at CR046-CR047. Thereafter, a Referee conducted a hearing on both appeals on October 23, 2024.

Employer did not appear for the hearing. At the hearing, Claimant testified to the circumstances surrounding her separation from employment, as well as to the events leading up to the filing of her appeals on August 8, 2024, asserting that Employer terminated her employment for unknown reasons and that she did not become aware of the prior determinations from October 2021 until she filed for benefits again in August 2024. C.R. at CR090, CR093. Because Employer failed to appear for the hearing, there was no testimony or evidence adduced to support Employer's assertion that Claimant had voluntarily resigned from her position. C.R. at CR084. Employer had previously contended that Claimant voluntarily quit, stating that Claimant had taken her grandmother, a patient, to another agency and never contacted Employer again. C.R. at CR019. Claimant, however, testified that she did not voluntarily resign, that her termination occurred over the phone, and that she could not specify the exact reasoning for her termination. C.R. at CR093.

In regard to Claimant's mailing address, Claimant testified that prior to her incarceration, she used the Philadelphia Mailing Address for unemployment purposes but had moved to another location in North Philadelphia between the time she first filed for benefits and when she became incarcerated in December 2020. C.R. at CR089-CR091. Claimant testified that while she had received a debit card and PIN number from an individual residing at the Philadelphia Mailing Address prior to her arrest, she was not made aware of any determinations by the Department or further mail that had been received there during or after her incarceration. *Id.* Claimant further testified that she did not continue to file her benefit claims while she was incarcerated and that she did not authorize a third party to do so. C.R. at

CR094-CR095. Specifically, Claimant testified that during her incarceration, she had no access to a computer or the internet and had limited access to a phone, which was restricted to making pre-approved calls by the prison. C.R. at CR096.

The Referee issued decisions on October 25, 2024, dismissing the appeals as untimely. C.R. at CR100-CR103. Claimant then timely appealed to the Board. C.R. at CR113-CR116.

By identical decisions issued on February 18, 2025, the Board affirmed the Referee's decisions dismissing the appeals as untimely. In so doing, the Board issued the following findings of fact:

1. On October 14, 2021, the Department . . . issued a Notice of Determination (determination) denying unemployment compensation benefits to [C]laimant.
2. A copy of this determination was sent to [C]laimant at her last known post office address on the same date.
3. The notice informed [C]laimant that November 4, 2021, was the last day on which to file an appeal from this determination.
4. [C]laimant filed an appeal on August 8, 2024.
5. [C]laimant delayed in filing the appeal because she was incarcerated from December 2020 until December 2022.
6. There is no evidence that [C]laimant was misinformed or misled by the unemployment compensation authorities regarding her right or the necessity to appeal.

C.R. at CR139-CR140, CR187.

The Board reasoned:

A determination denying benefits was issued to [C]laimant. [C]laimant filed an appeal, and the Referee issued a decision dismissing the appeal as being late. Thereafter, [C]laimant filed a further appeal from the Referee's decision.

. . . .

In this case, the final date to appeal the Department's determination was November 4, 2021. [C]laimant filed the appeal on August 8, 2024, which was after the expiration of the statutory appeal period. Here, [C]laimant testified she did not receive the Notice of Determination due to her incarceration. However, she was in touch with people who were at her address of record, and she received mail and a debit card that were mailed to that address. Additionally, [C]laimant's incarceration ended in December 2022 and the appeal wasn't filed until August 2024.

The provisions of [Section 501(e)] of the Law are mandatory; the [Board] and its referees have no jurisdiction to allow an appeal filed after the expiration of the statutory appeal period absent limited exceptions not relevant herein. The filing of the late appeal was not caused by fraud or its equivalent by the administrative authorities, a breakdown in the appellate system, or by non-negligent conduct. Therefore, the Referee properly dismissed [C]laimant's petition for appeal.

C.R. at CR140, CR187-CR188.

Claimant then petitioned this Court for review of both decisions, and we consolidated the matters by order dated May 30, 2025.

II. ISSUES

On appeal,⁴ Claimant contends that (1) key factual findings of the Board that Claimant delayed in filing her appeals and that the appealable determinations were actually mailed are unsupported by substantial evidence, and (2) the untimely filing of the appeals was the result of non-negligent circumstances and, therefore, Claimant is entitled to *nunc pro tunc* relief.

III. DISCUSSION

A. SUBSTANTIAL EVIDENCE

We will first address whether the Board's findings of fact are supported by substantial evidence. The Board's findings are binding and conclusive on appeal if

⁴ This Court's standard of review is limited to determining whether constitutional rights were violated, whether an error of law was committed, or whether necessary findings of fact are supported by substantial evidence. 2 Pa. C.S. § 704.

they are supported by substantial evidence, even if the record contains contrary evidence or evidence that supports alternative findings. *Harris v. Unemployment Comp. Bd. of Rev.*, 247 A.3d 477, 484 (Pa. Cmwlth. 2021). Substantial evidence is defined as “relevant evidence that a reasonable mind might consider adequate to support a conclusion.” *Constantini v. Unemployment Comp. Bd. of Rev.*, 173 A.3d 838, 842 (Pa. Cmwlth. 2017). This Court must examine the record in its entirety and view the evidence and testimony in the light most favorable to the prevailing party. *Cambria Cnty. Transit Auth. v. Unemployment Comp. Bd. of Rev.*, 201 A.3d 941, 947 (Pa. Cmwlth. 2019). Further, our Court has long recognized that the Board is the ultimate factfinder in these proceedings and possesses sole authority in drawing reasonable inferences from the record. *Fenk v. Unemployment Comp. Bd. of Rev.*, 405 A.2d 590, 591 (Pa. Cmwlth. 1979).

Claimant first argues that the Board’s finding that each determination had been mailed to Claimant’s post office address of record is not supported by substantial evidence of record. Claimant’s Brief at 14-16. Claimant contends that nothing in the record supports a finding that the determinations were actually mailed to the Philadelphia Mailing Address and observes that the Department declined to participate and to provide testimony to this point in her appeals to the Referee. *Id.* However, Claimant failed to raise this issue before the Referee when she had the opportunity to do so, and, therefore, Claimant waived the issue. *Dehus v. Unemployment Comp. Bd. of Rev.*, 545 A.2d 434, 436 (Pa. Cmwlth. 1988).

Claimant next challenges the Board’s findings that “she was in touch with people who were at her address of record, and she received mail and a debit card that were mailed to [the Philadelphia Mailing A]ddress.” C.R. at CR140. Claimant argues that the evidence of record only supports a finding that she had contact with

individuals who were at that address and received mail and a debit card that were mailed to that address *to the extent that the finding pertains to the time period prior to her incarceration*. At the October 23, 2024 hearing, Claimant testified that she received unemployment compensation information from the Philadelphia Mailing Address pre-incarceration, but, during her incarceration, she did not receive anything related to her claim. C.R. at CR091. In fact, Claimant did not provide any testimony regarding whether she was in contact with any resident from the Philadelphia Mailing Address during her incarceration. Further, Claimant testified that, after her release from incarceration, she was unable to recover the debit card and mail she had previously received from the Department, as those items remained at her address in North Philadelphia to which she had no access. C.R. at CR094.

The Board's decisions presume that Claimant had contact with individuals at the Philadelphia Mailing Address or received other mail or her debit card from them *during her incarceration*, thus calling into question her testimony denying receipt of the Notices of Determination due to her incarceration. Claimant disputes that the record supports such a finding. We agree. The evidence of record shows that Claimant had contact with the individuals at the Philadelphia Mailing Address before she was incarcerated and not during her incarceration. As such, the Board's finding that Claimant was in contact with individuals at the Philadelphia Mailing Address as to the time period during her incarceration and thereafter is unsupported by substantial evidence. We agree with Claimant that there is no evidence of record that could support a finding of any contact with or receipt of items from the individuals residing at the Philadelphia Mailing Address during her period of incarceration or thereafter. Moreover, this Court will be mindful of that distinction in our analysis of whether Claimant is entitled to *nunc pro tunc* relief.

B. *NUNC PRO TUNC* RELIEF

Claimant argues that the Board erred as a matter of law in dismissing her appeal as untimely and that the late appeal was the result of non-negligent circumstances entitling her to *nunc pro tunc* relief. Under Section 501(e) of the Law, a party has 21 days from the date a determination is mailed to the claimant's last known address to file an appeal. Failure to submit a timely appeal deprives the Board and the courts of jurisdiction to consider the appeal on the merits. *Hessou v. Unemployment Comp. Bd. of Rev.*, 942 A.2d 194, 198 (Pa. Cmwlth. 2008). However, a claimant's late appeal may be considered timely under the *nunc pro tunc* doctrine, which is only warranted in limited, extraordinary circumstances involving "fraud or some breakdown in the court's operation" or where non-negligent circumstances caused the delay. *Cook v. Unemployment Comp. Bd. of Rev.*, 671 A.2d 1130, 1131 (Pa. 1996) (internal quotations omitted) (quoting *Bass v. Com.*, 401 A.2d 1133, 1135 (Pa. 1979)). In cases where non-negligent circumstances cause the untimely filing of an appeal, the appeal must be filed within a short period of time after the appellant learns of the untimeliness. *Id.* Our Court has long held that the heavy burden of establishing the right to *nunc pro tunc* relief is on the party seeking to file the untimely appeal. *Blast Intermediate Unit No. 17 v. Unemployment Comp. Bd. of Rev.*, 645 A.2d 447, 449 (Pa. Cmwlth. 1994).

Claimant's challenge to the Board's conclusion focuses on the Board's finding of fact relating to her contact with individuals at the Philadelphia Mailing Address. Although the finding does not specifically state that Claimant had contact with individuals at the Philadelphia Mailing Address during her incarceration, the Board, in its decision and again in its brief, appears to view that finding as relating to Claimant's period of incarceration. The Board's reasoning for its conclusion that

Claimant did not meet the requirements for *nunc pro tunc* relief makes sense only if the finding regarding her contact with individuals from the Philadelphia Mailing Address applies to her period of incarceration, particularly around the time period the Department mailed the determinations in late 2021. Again, the Board provided the following reasoning:

In this case, the final date to appeal the Department’s determination was November 4, 2021. [C]laimant filed the appeal on August 8, 2024, which was after the expiration of the statutory appeal period. Here, [C]laimant testified she did not receive the Notice of Determination due to her incarceration. *However, she was in touch with people who were at her address of record, and she received mail and a debit card that were mailed to that address.* Additionally, the [C]laimant’s incarceration ended in December 2022 and the appeal wasn’t filed until August 2024.

C.R. at CR140, CR188 (emphasis added). If this reasoning is analyzed while applying the temporal limitation that Claimant had contact with and received items from individuals at the Philadelphia Mailing Address prior to her incarceration and not during or after her incarceration, then the reasoning fails to address how Claimant’s conduct was negligent.

When considering *nunc pro tunc* relief for claimants who have experienced periods of incarceration, this Court has drawn a distinction between claimants who are voluntarily absent from their mailing address and those who are involuntarily institutionalized. *See Jenkins v. Unemployment Comp. Bd. of Rev.*, 202 A.3d 140, 144 (Pa. Cmwlth. 2018). In *Jenkins*, we granted relief to a claimant who missed an appeal deadline because he had been admitted to an inpatient drug treatment facility. *Id.* at 141. In rejecting the Board’s argument that every claimant has a universal duty to forward mail when absent, we found that “forwarding mail is a step undertaken when one leaves home for an extended period of time, not for a vacation or hospitalization.” *Id.* at 144. Furthermore, we found that there was no evidence

that the postal service would have agreed to mail to the facility, or that the facility would have distributed the mail to patients. *Id.* In contrast, when a claimant was informed of a letter, failed to ascertain its contents, and delayed filing an appeal, we have denied *nunc pro tunc* relief. *Guat Gnoh Ho v. Unemployment Comp. Bd. of Rev.*, 525 A.2d 874, 876 (Pa. Cmwlth. 1987). Our reasoning in *Jenkins* must apply to incarcerated claimants, who typically have even less control over mailing situations than an inpatient treatment patient.

In support of her contention that her failure to file an appeal timely is not attributable to any negligence on her part, Claimant focuses on her lack of receipt of the determinations while incarcerated, her lack of continued receipt of benefits during her incarceration, and her inability to address unemployment compensation matters while incarcerated. More specifically, Claimant points to her testimony that demonstrates that not only did she not receive anything related to her unemployment compensation claim during her incarceration, but that, after her release, she lost access to her prior residence and was unable to recover the debit card and mail from the Department that she had received prior to incarceration. C.R. at CR094. Claimant further notes that she had no reason to anticipate the need to have further contact with the Department regarding her unemployment claim, as she had been receiving benefits steadily for thirteen weeks and did not plan to continue to receive benefits through this claim.

In response, the Board argues that Claimant's inability to file timely appeals while incarcerated does not establish non-negligent circumstances as there is no evidence that Claimant made suitable arrangements to receive mail while she was incarcerated for two years. Further, the Board contends that, even if Claimant is excused for failing to make arrangements to receive mail during that period, she

lacks a reasonable explanation as to why she did not appeal for an additional two years following her release. The Board relies on this Court's holding in *Puckett v. Department of Transportation, Bureau of Driver Licensing*, 804 A.2d 140 (Pa. Cmwlth. 2002), that incarceration does not automatically constitute non-negligent grounds which permit an untimely appeal because of a responsibility to receive mail. *See Puckett*, 804 A.2d at 143.

Based upon the record before us, we perceive no negligence on the part of Claimant that affected her receipt of the determinations at issue here. Moreover, the Board's reliance on *Puckett* is misplaced. In *Puckett*, we found that the appellant did not experience "any incapacitation such that he could not have filed a timely appeal or any non-negligent action on the part of a third person such that made filing a timely appeal impossible." *Puckett*, 804 A.2d 140 at 143. We did not conclude, however, that within the unemployment compensation context, incarceration is a *per se* bar on *nunc pro tunc* relief. Furthermore, Claimant's case is noticeably distinguishable from *Puckett*. The licensee in *Puckett* had an affirmative obligation to update his address with the Department of Transportation under Section 1515 of the Vehicle Code, 75 Pa. C.S. § 1515. *Puckett*, 804 A.2d at 144. The licensee's mother received the notices and acted on his behalf, whereas here, the record does not indicate that Claimant had any contact with individuals at the Philadelphia Mailing Address during or after her incarceration. *Id.* at 142. While there were no additional circumstances preventing the licensee in *Puckett* from filing an appeal other than his incarceration, the record before us suggests that Claimant had no access to her unemployment compensation mail within the correctional institution, was never contacted by the individuals who may have received the determinations, was unaware of any third party filing weekly claims in her name, and had no

expectation of receiving further communications from the Department given that she had been receiving benefits for 13 weeks and did not plan to file for additional benefits upon her incarceration. Claimant's incarceration more closely resembles the institutionalization in *Jenkins*, where it was found that the claimant had no duty to have their mail forwarded.

More specifically, as to whether Claimant could have reasonably anticipated receiving further unemployment compensation correspondence given the status of her claim, such that she should have taken steps to update her address with the Department, we have previously held that a claimant must "proceed with reasonable diligence once she learns of the necessity to act." *Harris v. Unemployment Comp. Bd. of Rev.*, 247 A.3d 1223, 1232 (Pa. Cmwlth. 2021). Further, whether due diligence is warranted rests on what a plaintiff "might have known by the use of the means of information within his reach, with the vigilance the law requires of him." *Id.* at 1233. In *Jenkins*, the Board credited the claimant's testimony that he was unaware that he would need to file an appeal and that he had never gone through a similar procedure when filing for unemployment compensation benefits. *Jenkins*, 202 A.3d at 142. A claimant may be held to a higher expectation of due diligence where they have an active, pending unemployment compensation claim or appeal at the time of incapacitation, but here Claimant had been receiving benefits for weeks without issue. The Board issued the new determinations a year into Claimant's incarceration and over a year after Claimant had originally begun receiving benefits. While incarcerated, Claimant had no access to mail or the ability to use the internet to access the unemployment compensation program. As such, she had no reason to anticipate further correspondence or determinations that she might have to appeal.

The Board's contention that Claimant was negligent in waiting an additional two years after her release to file her appeals and is, therefore, barred from relief is without merit. As noted above, the Board's finding that Claimant was in touch with residents at the address of record while she was incarcerated is unsupported by substantial evidence. Nevertheless, the Board bases its conclusion that Claimant delayed in filing her appeals on the unsubstantiated notion that she received the determinations while incarcerated. In the absence of receipt of the determinations, Claimant would not have had any knowledge that appeals were warranted, either during or after her release from incarceration. It was only after Claimant filed for benefits in August 2024, following her separation from a subsequent employer, that she learned of the 2021 disqualification and fault-overpayment determinations. Claimant promptly filed the instant appeal within days of learning of these determinations.

Finally, we note that the Board now argues before this Court that Claimant was negligent in failing to update her address with the Department. We note that Claimant's move from the Philadelphia Mailing Address to North Philadelphia was not the cause of the lack of receipt of the determinations, which were issued after her incarceration. In fact, Claimant did receive her unemployment compensation debit card and PIN number after she left that address. Furthermore, Claimant addressed her inability to provide information to the Department after her incarceration and her reasonable belief that no further determinations would be forthcoming from the Department because she was no longer filing for benefits. Thus, the Board's argument is not persuasive.

IV. CONCLUSION

Accordingly, we reverse the Board's orders dismissing Claimant's appeals as untimely, and we remand these matters for further proceedings to consider the merits of Claimant's appeals.

STELLA M. TSAI, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Romeicka Williams,	:	
Petitioner	:	
	:	
v.	:	
	:	
Unemployment Compensation	:	
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ORDER

AND NOW, this 3rd day of September, 2026, the orders of the Unemployment Compensation Board of Review dismissing Petitioner Romeicka Williams' appeals as untimely are REVERSED, and we remand the matters for consideration of the merits.

Jurisdiction relinquished.

STELLA M. TSAI, Judge