

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jack Yakovich,	:	CASES CONSOLIDATED
Petitioner	:	
	:	No. 543 C.D. 2025
	:	No. 544 C.D. 2025
	:	No. 545 C.D. 2025
v.	:	
	:	Submitted: July 24, 2026
Unemployment Compensation Board of	:	
Review,	:	
Respondent	:	

BEFORE: HONORABLE ANNE E. COVEY, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE STACY WALLACE, Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION BY
JUDGE DUMAS**

FILED: September 1, 2026

In these consolidated cases, Jack Yakovich (Claimant) has petitioned for review three adjudications issued by the Unemployment Compensation (UC) Board of Review (Board) on April 9, 2025, which dismissed Claimant’s appeals as untimely under Section 502(a) of the UC Law.¹ Upon review, we affirm the Board.

¹ Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 822(a).

I. BACKGROUND²

On July 21, 2021, the Office of UC Benefits (Department) issued three decisions adverse to Claimant. First, because Claimant had not provided information regarding his pension as requested, the Department determined that Claimant did not qualify for unemployment benefits. Based on this disqualification, the Department further determined that Claimant had received \$4,200 in non-fraud overpayments in pandemic related benefits and \$4,504 in non-fault overpayments in state UC benefits.

The final date for Claimant to appeal these decisions to the Referee was August 5, 2021. However, Claimant did not file his appeals until September 20, 2021. On January 24, 2022, the Referee dismissed these appeals as untimely under Section 501(e) of UC Law. *See* 43 P.S. § 821(e).

On October 30, 2024, Claimant appealed the Referee's decisions to the Board. In response, the Board sent a letter to Claimant, informing him that his appeal was untimely but that he could request a hearing to address the issue of timeliness. *See* Bd.'s Letter, 11/13/24. Claimant promptly requested a hearing. *See* Claimant's Resp., 11/22/24.

² Unless stated otherwise, we derive this background from the orders issued by the Board, which are supported by substantial evidence of record. *See* Bd.'s Decision & Order, Dkt. No. 2024007178-BR, 4/9/25; Bd.'s Decision & Order, Dkt. No. 2024007179-BR, 4/9/25; Bd.'s Decision & Order, Dkt. No. 2024007180-BR, 4/9/25. For additional context, we also reference earlier proceedings documented in decisions issued by the Referee. *See* Referee's Decision, Dkt. No. 2021329314-RO, 1/24/22; Referee's Decision, Dkt. No. 2021329309-RO, 1/24/22; Referee's Decision, Dkt. No. 2021329302-RO, 1/24/22. Finally, we include background information derived from the underlying, adverse decisions issued by the Office of Unemployment Compensation Benefits (Department). *See* Disqualifying Determination, 7/21/21; Notice of Determination Non-Fraud FPUC Overpayment, 7/21/21; Notice of Determination Non-Fault UC Overpayment, 7/21/21.

At the hearing, Claimant briefly described perennial difficulties receiving mail but offered little relevant detail. *See* Tr. of Test. (T.T.), 1/30/25, at 19-20. Claimant denied receiving the Referee’s decisions. *Id.* at 20, 35. Claimant offered no specific reasons that would have caused a delay in filing his appeals. *See id.* at 38-39. Rather, Claimant testified that he did not experience any personal, family, health, or other issues that may have caused the delay. *Id.* According to Claimant, he received nothing that he could recall until he got the billing notice for the overpayments. *Id.* at 20-21.

The Board dismissed Claimant’s appeals as untimely under Section 502(a) of UC Law. The Board found that the Referee’s decisions were successfully sent to Claimant and that Claimant presented no evidence that would warrant *nunc pro tunc* relief. Claimant timely appealed the Board’s decisions to this Court.

II. ISSUE

Claimant contends that his appeals should be deemed timely. Claimant’s Br. at 12. In support of this contention, Claimant maintains that “non-negligent mailing irregularities” prevented him from receiving the Referee’s decisions. *Id.* at 13. Claimant argues that he first received notice of the Referee’s decisions on October 21, 2024, when he received the Overpayment Billing Notice. *Id.* Claimant claims he acted promptly because he appealed “within three days of receiving it.” *Id.* at 14. Claimant also asserts that, had he known about the Referee’s decisions sooner, he would have appealed on time. *Id.* at 14. Finally, Claimant avers that the fact that the phone number and email on his Claim Application are inaccurate show that this “error was not of his making.” *Id.*

III. DISCUSSION³

Under Section 502(a) of the UC Law, a Referee's decision must be appealed within 21 days of a determination. 43 P.S. § 822(a). "[A]n appeal filed one day after the expiration of the statutory appeal period must be dismissed as untimely." *Dumberth v. Unemployment Comp. Bd. of Rev.*, 837 A.2d 678, 681 (Pa. Cmwlth. 2003) (*en banc*) (citations omitted). The untimely filing of an appeal warrants dismissal because the timely filing of an appeal, even at the administrative level, is jurisdictional. *McKnight v. Unemployment Comp. Bd. of Rev.*, 99 A.3d 946, 949 (Pa. Cmwlth. 2014). Failure to appeal the Referee's decision makes it "the final decision of the [B]oard" *Id.*

Here, the Referee issued its decisions on January 24, 2022. Claimant had 21 days, *i.e.*, until February 14, 2022, to appeal these decisions. Claimant did not appeal until October 30, 2024, more than two and a half years after the appeal period had expired. Therefore, Claimant's appeals were patently untimely. *See Dumberth*, 837 A.2d at 681; Section 502(a) of the UC Law, 43 P.S. § 822(a).

The Board may consider an untimely appeal in extraordinary circumstances. *Barsky v. Unemployment Comp. Bd. of Rev.*, 261 A.3d 1112, 1119 (Pa. Cmwlth. 2021); *Hessou v. Unemployment Comp. Bd. of Rev.*, 942 A.2d 194, 198 (Pa. Cmwlth. 2008). Because the statutory time limit for appeals is mandatory, Claimant bears a heavy burden to establish the right to have an untimely appeal

³ On appeal, our review is limited to "determining whether necessary findings of fact were supported by substantial evidence, whether errors of law were committed, or whether constitutional rights were violated." *Pierce-Boyce v. Unemployment Comp. Bd. of Rev.*, 289 A.3d 130, 135 n.4 (Pa. Cmwlth. 2022). This Court is bound by the Board's findings of fact, so long as they are supported by substantial evidence. *Id.* at 135-36. "The Board, and not this Court, is the [ultimate] factfinder in [UC] cases. *Hetzel v. Com., Unemployment Comp. Bd. of Rev.*, 461 A.2d 1335, 1336 n. 3 (Pa. Cmwlth. 1983); *see also Johnson v. Unemployment Comp. Bd. of Rev.*, 331 A.3d 139, 142 n.7 (Pa. Cmwlth. 2025) (same).

considered. *Barsky*, 261 A.3d at 1120; *Hessou*, 942 A.2d at 198. To satisfy this heavy burden, an appellant must establish that his untimely appeal was caused by (1) an administrative authority engaging in fraudulent behavior or manifestly wrongful or negligent conduct, or (2) non-negligent conduct beyond Claimant’s control. *Walthour v. Unemployment Comp. Bd. of Rev.*, 276 A.3d 837, 842-43 (Pa. Cmwlth. 2022). The question of whether there are unique and compelling facts that would excuse an untimely appeal “is a legal conclusion to be drawn from the evidence and is reviewable on appeal.” *Barsky*, 261 A.3d at 1120.

Here, we discern no non-negligent conduct beyond Claimant’s control.⁴ At the remand hearing, Claimant testified that he has experienced “mailing problems” at his residence for “29 years.” T.T. at 19. He explained that because of these “mailing problems,” he never received the Referee’s decisions. *Id.* at 19-20.

The Board considered but ultimately did not credit Claimant’s testimony. *See* Bd.’s Decision & Order, Dkt. No. 2024007178-BR, 4/9/25.⁵ Rather, the Board found that “there is no evidence that [Claimant] was misinformed or misled by the unemployment compensation authorities regarding [his] right or the necessity to appeal” and that “the [Referee’s] decision was timely and successfully sent to [Claimant] via his preferred method of communication and not returned as undeliverable.” *Id.* Thus, the Board concluded that Claimant “did not meet his burden of proof to provide credible evidence or testimony to show that his appeal was, or should be accepted as if, timely filed.” *Id.*

⁴ Claimant has not asserted that his untimely appeal was caused by an administrative authority engaging in fraudulent behavior or manifestly wrongful or negligent conduct. *See generally* Claimant’s Br.

⁵ The Board’s other orders include substantially identical analyses. *See* Bd.’s Decision & Order, Dkt. No. 2024007179-BR, 4/9/25; Bd.’s Decision & Order, Dkt. No. 2024007180-BR, 4/9/25.

This Court will not disturb the Board's findings as they are supported by substantial evidence of record. *See Johnson*, 331 A.3d at 142 n.7; *Hetzel*, 461 A.2d at 1336 n.3. Claimant's argument is necessarily dependent and relies upon the existence of facts that the Board did not find or credit. Claimant failed to support his argument with evidence beyond his own self-serving testimony, which the Board did not find credible. Accordingly, we must reject Claimant's argument.

IV. CONCLUSION

We discern no legal error in the Board's adjudication. Claimant did not appeal within 21 days of the determination; therefore, his appeal was untimely. *See* Section 502(a) of UC Law, 43 P.S. § 822(a). Further, based on the evidence of record, Claimant failed to establish that he is entitled to *nunc pro tunc* relief. *See Walthour*, 276 A.3d at 842-43; *Barsky*, 261 A.3d at 1120. Accordingly, we affirm.

LORI A. DUMAS, Judge

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	:	
Unemployment Compensation Board of	:	
Review,	:	
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ORDER

AND NOW, this 1st day of September, 2026, the orders of the Unemployment Compensation Board of Review, entered on April 9, 2025, are AFFIRMED.

LORI A. DUMAS, Judge