IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Terrance Yankanich, Petitioner	:	
v.	:	
Unemployment Compensation Board of Review, Respondent	:	No. 857 C.D. 2025
	:	Submitted: September 14, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE STACY WALLACE, Judge
HONORABLE STELLA M. TSAI, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE TSAI FILED: November 24, 2026

Petitioner Terrance Yankanich (Claimant) petitions, *pro se*, for a review of an order of the Unemployment Compensation Board of Review (Board), which dismissed Claimant's appeal of a Referee's decision as untimely under Section 501(e) of the Unemployment Compensation Law (Law).[1] We now affirm.

Claimant filed a claim for unemployment compensation benefits, effective November 6, 2022, following the termination of his employment at Acme Markets

[1] Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 821(e). Section 501(e) provides:

> Unless the claimant . . . files an appeal with the [B]oard, from the determination contained in any notice required to be furnished by the department . . . no later than twenty-one calendar days after the "Determination Date" provided on such notice . . . , such determination of the department . . . shall be final and compensation shall be paid or denied in accordance therewith.

Inc. (Employer).[2] Certified Record (C.R.) at CR3, CR9. The Department of Labor and Industry's Office of Unemployment Compensation Benefits (UC Office) issued a Qualifying Separation Determination (Determination), concluding that Claimant was not ineligible for benefits under Section 402(e) of the Law relating to willful misconduct at work because Claimant had good cause for violating a work rule. *Id*. at CR28. Employer appealed the Determination. *Id*. at CR39.

On June 30, 2023, the UC Office sent a notice of hearing to the parties. *Id*. at CR55, CR62. On July 21, 2023, a Referee conducted a hearing, at which only Employer appeared. *Id*. at CR72. Following the hearing, the Referee issued a decision reversing the Determination, noting that "Claimant did not appear to offer any testimony or evidence that would dispute Employer['s] testimony" regarding the Twizzler incident that led to the termination of Claimant's employment. *Id*. As such, the Referee denied Claimant benefits. *Id*. at CR74. The Referee's decision was sent via mail and through Claimant's online Message Center. *Id*. at CR71, CR254. The decision indicated that the final date to appeal the decision was August 11, 2023. *Id*. at CR71.

Claimant appealed the Referee's decision on August 23, 2023. *Id*. at CR81. On September 7, 2023, the Board responded to Claimant's untimely appeal, instructing Claimant to "request in writing that a hearing be scheduled to allow [Claimant] the opportunity to set forth" reasons why the appeal would be timely. *Id*. at CR116. Within the deadline, Claimant made a request for a hearing based on the

[2] Relevant to this matter, Claimant listed "Philadelphia, PA *19145*" as the City, State, and Zip Code for his address in two separate places in his application for unemployment compensation benefits. C.R. at CR3, CR4. When he applied for unemployment compensation benefits, Claimant selected "Postal Mail" as his preferred method of communication for receipt of notices. *Id*. at CR5.

issue of timeliness of his appeal of the Referee's decision. *Id*. at CR87. On remand from the Board, a Referee conducted a hearing to address that issue. *Id*. at CR119.

At the remand hearing, Claimant testified but Employer did not appear. *Id*. at CR151. Claimant testified that his address had a zip code of 19148 and that the Referee's decision was sent to an address with a zip code of 19145. *Id*. at CR152-CR153. Claimant testified that he could not remember when he eventually received the Referee's decision in the mail, but that it was after August 11, 2023 (the deadline for appeals). *Id*. at CR158. He testified, however, that he did receive the mailed notice of the remand hearing, which was sent to an address with a zip code of 19145. *See id*. at CR138 (notice), CR156. The Board ordered another remand hearing to receive testimony and evidence regarding Claimant's reason for his nonappearance at the initial hearing, but that evidence is not relevant to the disposition of this matter. *Id*. at CR165.

Following the second remand hearing, the Board issued an order dismissing Claimant's appeal, having concluded that Claimant provided an incorrect mailing address, which is "not good cause for a delay in filing an appeal." *Id*. at CR259. The Board issued the following findings of fact:

1. On July 21, 2023, the Referee issued a decision which denied . . . [C]laimant unemployment compensation benefits.
2. A copy of the Referee's decision was mailed to . . . [C]laimant at his last known post office address on the same date.
3. The decision was accompanied by notice advising that the interested parties had twenty-one (21) days in which to file a valid appeal.
4. There is no indication that the decision mailed to . . . [C]laimant was returned by the postal authorities as undeliverable.
5. . . . [C]laimant's appeal from the Referee's decision, in order to be timely, had to have been filed on or before August 11, 2023.
6. . . . [C]laimant's appeal was filed on August 23, 2023, by mail.

7. . . . [C]laimant delayed in filing the appeal because he stated he did not receive the Referee's decision prior to the appeal deadline.

8. There is no evidence that . . . [C]laimant was misinformed or misled by the unemployment compensation authorities regarding his right or the necessity to appeal.

Id. at CR258-CR259. The Board reasoned:

> [C]laimant makes a general denial of receipt [of the Referee's decision] until after the deadline for a timely appeal had passed. The Board does not find this genera[l] denial to be credible. Further, . . . [C]laimant alleged that the zip code was incorrect and that the 19145 zip code used is wrong and that the correct zip code is 19148. However, the Board takes administrative notice that . . . [C]laimant's personal information, as entered by him, on the portal, still maintains the 19145 zip code. . . . The filing of the late appeal was not caused by fraud or its equivalent by the administrative authorities.

Id. at CR259. Claimant petitioned for review of the Board's order.

On appeal to this Court,[3] Claimant focuses entirely on the merits of his claim for unemployment compensation benefits and does not address the issue of timeliness. Claimant Br. at 1-2.

The failure to appeal timely is a jurisdictional defect, meaning that this Court is unable to review untimely filed appeals. *Sofronski v. Civ. Serv. Comm'n, City of Philadelphia*, 695 A.2d 921, 924 (Pa. Cmwlth. 1997). If a petitioner files an untimely appeal that is caused by fraud or a breakdown in the administrative system, the petitioner may request *nunc pro tunc* relief. *Carr v. First Commonwealth Bank*, 363 A.3d 1283, 1291 (Pa. 2026). Petitioners carry a heavy burden to justify an untimely appeal. *Blast Intermediate Unit No. 17 v. Unemployment Comp. Bd. of Rev.*, 645 A.2d 447, 449 (Pa. Cmwlth. 1994).

[3] This Court's review of a Board order is limited to determining whether the findings of fact are supported by substantial evidence, whether errors of law were committed, or whether constitutional rights were violated. 2 Pa. C.S. § 704.

As Claimant's brief does not mention the untimeliness of his appeal of the Referee's decision or address why he should be entitled to *nunc pro tunc* relief, we consider the issue waived and cannot consider the merits of his substantial evidence challenge. *See* Pa.R.A.P. 2116(a) ("[n]o question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby").

Accordingly, we affirm the order of the Board.[4]

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STELLA M. TSAI, Judge

[4] At the first remand hearing after the Referee's decision, the Referee noted that Claimant's situation amounted to a *non-fault* overpayment under Section 804(b)(1) of the Law, 43 P.S. § 874(b)(1). C.R. at CR154. Section 804(b)(1) essentially provides that any person, who, *by no fault of their own*, receives an overpayment in unemployment compensation benefits is *not required to repay the sum*, but will, instead, have that sum deducted from any future unemployment compensation benefits payable to them during that benefit year or the next benefit years. 43 P.S. § 874. As such, Claimant is not required to pay back the non-fault overpayments; rather, should Claimant thereafter be entitled to benefits during the relevant benefit year or the next three benefit years, the amount owed would be deducted from those future benefits. C.R. at CR3.

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O R D E R

AND NOW, this 24th day of November, 2026, the order of the Unemployment Compensation Board of Review is hereby AFFIRMED.

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STELLA M. TSAI, Judge