

2022 IL App (1st) 210779

Third Division
August 24, 2022

No. 1-21-0779

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

| | | |
|---------------------------------------|---|--------------------|
| WILLIAM MASKEVICH, |) | |
| |) | |
| Plaintiff-Appellant, |) | Appeal from the |
| |) | Circuit Court of |
| v. |) | Cook County. |
| |) | |
| THE ILLINOIS DEPARTMENT OF EMPLOYMENT |) | No. 20 L 50262 |
| SECURITY, DIRECTOR OF EMPLOYMENT |) | |
| SECURITY, BOARD OF REVIEW, AND AMAZON |) | Honorable |
| LLC, |) | John J. Curry Jr., |
| |) | Judge, presiding. |
| Defendants-Appellees. |) | |

JUSTICE ELLIS delivered the judgment of the court, with opinion.
Justices McBride and Burke concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiff William Maskevich appeals *pro se* from an order of the circuit court, which affirmed the decision of the Board of Review (Board) of the Illinois Department of Employment Security (IDES), finding that plaintiff's appeal of a determination regarding unemployment benefits was untimely.

APPENDIX A

¶ 2 In a nutshell, plaintiff received unemployment insurance benefits from IDES from July to December 2018 but also received, during most of that same time, short-term disability benefits for a knee injury. IDES sent plaintiff a “Notice of Fraud Decision,” seeking a refund of unemployment benefits and providing information on how to appeal that determination if plaintiff disagreed. Plaintiff filed that administrative appeal to an IDES referee, who found that she lacked jurisdiction to hear the appeal, as plaintiff filed the appeal more than 30 days after the Notice of Fraud was sent to him. Plaintiff appealed that ruling to the Board, which affirmed, likewise finding that jurisdiction was lacking because plaintiff appealed too late. The circuit court affirmed the Board’s final decision.

¶ 3 On appeal, plaintiff contends that the manner in which IDES provided notice of the right to appeal violated “fundamental fairness” and “fair play.” Plaintiff further alleges that he was denied “due process” when IDES’s determination that he was ineligible for certain benefits was against the manifest weight of the evidence. We find no error in the Board’s decision and affirm.

¶ 4 The following factual background is derived from the record on appeal, which includes IDES records, correspondence between IDES and plaintiff, and the transcript of the hearing before an ALJ.

¶ 5 On June 17, 2018, plaintiff filed a claim for unemployment insurance benefits with IDES, asserting that he was discharged by his employer, Amazon LLC, due to lack of work. He received unemployment benefits between July 2018 and December 2018. Between July 14, 2018, and December 8, 2018, however, plaintiff also received short-term disability pay for a knee injury.

¶ 6 On September 30, 2019, IDES mailed plaintiff a “Notice of Audit,” stating that plaintiff may have received benefits to which he was not entitled. On October 14, 2019, plaintiff filed a response which included his explanation for the alleged discrepancies and documents in support.

¶ 7 On December 12, 2019, IDES mailed a “Notice of Fraud Decision” to plaintiff’s last known address. The notice concluded that plaintiff knowingly made false statements or failed to disclose material facts, which resulted in the payment of benefits for which he was not eligible. IDES determined that plaintiff was overpaid \$3561 and would be required to repay that amount. The notice further stated, on the second page, that if plaintiff disagreed with the decision, he could file a request for “reconsideration/appeal” with IDES “within thirty (30) calendar days after the date this notice was mailed to you.” If the request were mailed, it “must bear a postmark date within the applicable time limit for filing.” Also included was an “Overpayment Detail” which calculated the overpayment on a weekly basis between July 28, 2018, and December 15, 2018, and a payment coupon containing instructions.

¶ 8 On January 31, 2020, plaintiff submitted an IDES Appeals Worksheet seeking reconsideration because his employer reported wages at the “time paid” rather than at the time earned and paid sporadically. Attached was a letter dated January 30, 2020, further explaining plaintiff’s arguments.

¶ 9 On February 20, 2020, a telephonic hearing was held before an ALJ. Plaintiff testified, relevant here, that he did not receive “sufficient notice” of his right to appeal when the “body” of

the notice did not include a date by which the appeal “needed to be made.” Rather, the “only” date was January 15, 2020, the date on which plaintiff was to begin repayment.¹

¶ 10 Plaintiff asserted that he mailed a request for reconsideration to the “Appeals Division” on January 14, 2020, and there was a postal service receipt “of that.”² However, this document was returned with “the indication” there was nothing for him to appeal. After a “series of phone calls,” plaintiff was directed to “Benefit Controls” and given a fax number. Plaintiff believed he emailed his request for an appeal the same day. Plaintiff asserted that no documents he had received stated that he had the right to appeal or specified a deadline for an appeal.

¶ 11 The ALJ then directed plaintiff to the portions of the December 12, 2019, notice stating that he had 30 days to request reconsideration, and listing an address and fax number. The ALJ concluded that because the deadline for filing an appeal was January 11, 2020, plaintiff’s appeal was untimely and dismissed it for lack of jurisdiction. Plaintiff agreed that “there was something about filing an appeal,” but argued it was “not in the body of the document” or above the signature line. The ALJ then admonished plaintiff that he could appeal the dismissal by filing, within 30 days, a request for a hearing with the Board.

¶ 12 Plaintiff filed a timely appeal to the Board, alleging that the information for appealing from the “fraud letter” was written on the back of the letter and he only “stumbled” across the information “by chance.”

¹ Based on this court’s review of the record and briefs, plaintiff was referring to a “Repayment Agreement,” dated December 19, 2019, which sets out a proposed schedule of payments, and lists January 15, 2020, as the due date for plaintiff’s first payment. This document is not included in the administrative record, but is attached to one of plaintiff’s filings in the circuit court.

² Plaintiff included a copy of this envelope and its postmark in his filings in the circuit court. However, it does not appear this request for reconsideration was considered by the ALJ and it is not included in the administrative record.

¶ 13 On May 1, 2020, the Board affirmed the dismissal of plaintiff's appeal, noting the record demonstrated that the notice was mailed to plaintiff's address on December 12, 2019, and included verbiage "setting forth the right to file an appeal within thirty days," meaning that an appeal was due on January 13, 2020 (which was a Saturday). Plaintiff's appeal, received January 31, 2020, was untimely and properly dismissed for lack of jurisdiction.

¶ 14 On June 1, 2020, plaintiff filed a *pro se* complaint for administrative review in the circuit court. During this proceeding, plaintiff filed documents that were not included in the administrative record including, relevant here, a December 19, 2019, "Repayment Agreement" requesting a one-time payment of \$3561, or, in the alternative, detailing the terms of a repayment agreement. The repayment agreement stated, in pertinent part, that plaintiff "will make payments of not less than \$325.00 beginning on January 15, 2020 and will continue to pay this amount each month thereafter on the same day until the amount is paid in full." At the bottom of the sheet was a space for plaintiff's signature, claimant identification number, and the date.

¶ 15 On June 3, 2021, the circuit court affirmed the Board's decision.

¶ 16 On appeal, plaintiff concedes that he received notice of his right to appeal the fraud decision but argues that "the placement of the notice within the overall, actual decision packet" was not "reasonably calculated" to actually give notice. He further claims that he was denied due process when IDES ignored and overlooked facts, resulting in a determination that was against the manifest weight of the evidence.

¶ 17 In an appeal from the denial of unemployment benefits, "[w]e review the final decision of the Board, rather than the decision of the referee or the circuit court." *Petrovic v. Department of Employment Security*, 2016 IL 118562, ¶ 22. Our review is limited to the record before the

administrative agency. 735 ILCS 5/3-110 (West 2018). We thus decline plaintiff's invitation to consider any evidence that was not included in the administrative record. See *Marconi v. Chicago Heights Police Pension Bd.*, 225 Ill. 2d 497, 532 (2006) (reviewing court "may not hear new or additional evidence in support of, or in opposition to, the decision of the administrative agency").

¶ 18 Here, there is no dispute that the Notice of Fraud Decision was mailed to plaintiff on December 12, 2019, that his appeal was due by Monday, January 13, 2020, and that his appeal was filed with IDES on January 31, 2020. Because these operative facts are not in dispute, whether plaintiff's appeal from the fraud decision was timely filed is a matter of law we review *de novo*. See *Goodman v. Ward*, 241 Ill. 2d 398, 406 (2011) ("where the historical facts are admitted or established, but there is a dispute as to whether the governing legal provisions were interpreted correctly by the administrative body, the case presents a purely legal question for which our review is *de novo*").

¶ 19 Agencies have no inherent or common-law power; they are creatures of statute that have only the power that the legislature gave them. *Mercury Sightseeing Boats, Inc. v. County of Cook*, 2019 IL App (1st) 180439, ¶ 55. When " 'an agency acts outside its statutory authority,' " we often say that the agency " 'acts without jurisdiction.' " *Id.* (quoting *Business & Professional People for the Public Interest v. Illinois Commerce Comm'n*, 136 Ill. 2d 192, 243 (1989)). So when we speak here of IDES's statutory authority to hear an untimely protest, it would not be unusual for the agency to speak to that question in terms of its "jurisdiction," as it did.

¶ 20 Under the Unemployment Insurance Act (Act), an IDES claim adjuster may determine that a person received unemployment benefits for which he or she was ineligible. See 820 ILCS 405/703, 900-01 (West 2018). This determination "may be appealed to a Referee within the time

limits prescribed by Section 800 [of the Act] for appeal from a determination.” 820 ILCS 405/900(B) (West 2018). The Act provides that “appeals from a claims adjudicator shall be taken to a Referee” and that unless the claimant files an appeal within 30 days from the date the decision is mailed to him or her, the claims adjudicator’s determination “shall be final.” 820 ILCS 405/800 (West 2018). This is a mandatory provision that acts as a statute of limitations. *Hernandez v. Department of Labor*, 83 Ill. 2d 512, 517 (1981). The 30-day deadline must be “strictly” complied with and is calculated from the date of service, that is, the mailing of the decision to the last known address of the party entitled to receive it. *Thompson v. Department of Employment Security*, 399 Ill. App. 3d 393, 395 (2010) (“the statute does not confer additional authority on the Board to entertain appeals beyond the 30 days after a decision has been mailed”).

¶ 21 We thus concur with the Board that it lacked statutory authority—or jurisdiction—to hear plaintiff’s appeal, as plaintiff did not file the appeal within the mandatory 30-day period. *Id.*

¶ 22 Nor can we agree with plaintiff that the notice of his appeal rights was so deficient or confusing as to violate his right to due process. The government is not required to notify an individual of administrative appeal rights, as long as a statute, administrative rule, or some otherwise clear public notice is provided by the government explaining such appeal rights. *City of West Covina v. Perkins*, 525 U.S. 234, 240-41 (1999); *Mercury*, 2019 IL App (1st) 180439, ¶ 89. But if the government chooses to provide notice of those appeal rights, the notice “ ‘must not be misleading’ ” or prejudicially confusing. *Mercury*, 2019 IL App (1st) 180439, ¶ 91 (quoting *Grimm v. Calica*, 2017 IL 120105, ¶ 24).

¶ 23 Here, there is no dispute that IDES, in its “Notice of Fraud Decision,” included a paragraph on the back page of its notice that explained plaintiff’s appeal rights. (Like the State, we take

plaintiff at his word that this second page was the back side of the first, as opposed to a freestanding second page; the record does not allow us to distinguish between these possibilities.)

¶ 24 The paragraph explaining plaintiff's appeal rights read, in its entirety:

"If you disagree with this decision, you may complete and submit a request for reconsideration/appeal. A letter will suffice if you do not have an agency form. Your request must be filed with the Illinois Department of Employment Security within thirty (30) days after the date this notice was mailed to you. If the last day for filing your request is a day that the Department is closed, the request may be filed on the next day the Department is open. Please file the request by mail or fax at the address or fax number listed above. Any request submitted by mail must bear a postmark date within the applicable time limit for filing. If additional information or assistance regarding the appeals process is needed, please contact your Agent."

¶ 25 This language is entirely clear and unambiguous. It begins with the simple, non-legalese introduction, "[i]f you disagree with this decision." It provides the appeal period in terms of days with both the written "thirty" and the number "30." It makes clear that the thirty-day clock begins "after the date this notice was *mailed* to you" (emphasis added), and the date of the mailing is clear from the first page of the Notice—"12/12/19." It explains that the appeal may be transmitted by mail or fax and provides both a mail address and a fax number in the heading of the first page. It clearly explains that the appeal may be by letter if the applicant does not have an agency form. And if all of that were not enough, it advises that "[i]f additional information or assistance regarding the appeals process is needed, please contact your Agent," whose name and phone

number is provided at the bottom of the first page. So if the citizen were at all confused by the instructions given, a simple phone call to the IDES agent would clear up any issues.

¶ 26 This paragraph explaining plaintiff's appeal rights was in the same size and font as the other paragraphs of the Notice of Fraud Decision. It was, in fact, the very first paragraph on the second page. It was not buried among other text but was its own freestanding paragraph. And it was, according to plaintiff, on the reverse side of the Notice, thus incapable of detachment.

¶ 27 Plaintiff complains that the front page of this Notice ended with a "signature line" identifying the IDES special agent who was sending the notice. From this, he suggests that the sign-off at the bottom of the first page indicated that nothing more was left to be read.

¶ 28 As the State notes, neither our supreme court nor this court has been receptive to the notion that a citizen is not required to flip a page to read on, beyond the front page of a government notice. In the decision of *In re Marriage of Miller*, 227 Ill. 2d 185, 201 (2007), Miller was held to be "aware of his statutory [child support] obligations, and equally aware of the \$100-per-day penalty" for noncompliance, based on a provision that was on the reverse side of his withholding notice. We likewise upheld the state's deduction of parking fines from a university employee's paycheck from a challenge to lack of notice, though notice of that deduction authority was on the reverse side of the employee's notice of appointment. See *Feldman v. Board of Trustees of Southern Illinois University*, 108 Ill. App. 3d 1127, 1130, 1135 (1982).

¶ 29 We do not think it is asking too much of our citizenry to read a notice in full, even if the information continues beyond the front page. And that is particularly true of someone who disagrees with the decision and plans to appeal. Surely it would not be unreasonable to expect a would-be protestor to at least read the entire notice in full in determining his or her next steps. See

O'Boyle v. Real Time Resolutions, Inc., 910 F.3d 338, 345 (7th Cir. 2018) (“a consumer who reads the front and back of the first page of a short letter and then completely disregards the second page has not read the letter with care.”). And again, if anything contained within the mailing from IDES were confusing, the recipient was informed of the option of contacting the IDES agent by phone at the provided number.

¶ 30 As the notice was clear, easy to understand, and prominently displayed, we find no due process violation in the notice given to plaintiff of his appeal rights.

¶ 31 In sum, the Board correctly found that it lacked statutory authority to consider plaintiff's protest. There is thus no need to consider the underlying merits of the protest. The judgment of the circuit court, affirming the decision of the Board, is affirmed.

¶ 32 Affirmed.

No. 1-21-0779

No. 1-21-0779

Cite as: *Maskevich v. Illinois Department of Employment Security*, 2022 IL App (1st) 210779

Decision Under Review: Appeal from the Circuit Court of Cook County, No. 20-L-50262; the Hon. John J. Curry, Jr., Judge, presiding.

**Attorneys
for
Appellant:** William Francis Maskevich, *pro se*.

**Attorneys
for
Appellee:** Kwame Raoul, Attorney General, State of Illinois; Jane Elinor Notz, Solicitor General; Caleb Rush, Assistant Attorney General.

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

WILLIAM MASKEVICH,

Plaintiff,

v.

**ILLINOIS DEPARTMENT OF
EMPLOYMENT SECURITY, et al.**

Defendants.

Case No.: 20 L 050262

ORDER

This matter having come before the court on the Plaintiff's Complaint and Appeal, the court having reviewed the parties' pleadings, briefs, and arguments before the court and having otherwise been fully advised in the premises,

OPINION

Plaintiff William Maskevich appeals the decision of the Illinois Department of Employment Security's ("IDES") Board of Review ("BOR") upholding the Referee's denial of Plaintiff's protest of a Notice of Fraud Decision dated December 12, 2019. The Referee found that the protest or appeal of the Notice was untimely, and that the Department therefore had no jurisdiction to hear Plaintiff's protest or appeal. The BOR affirmed that decision finding that the appeal was required to be post-marked no later than January 13, 2020. Plaintiff appeals that decision to this Court.

In proceedings before the Referee on February 20, 2020, Plaintiff stated that his appeal was post-marked January 14, 2020. He testified that he "thought [he] was complying with the deadlines". He claimed that there was not date appearing on the Notice for him to calculate the correct appeal due date. This, however, is erroneous, as the Notice is plainly dated December 12, 2019. R.20. Moreover, the Notice plainly set forth the time for appeal of thirty days after the date of the Notice. R.21. During the course of the proceedings on February 20, 2020, Plaintiff's attention was directed to that page on the notice, but Plaintiff claimed he could not find it in his papers. He also testified that the notice informed him that his first benefit repayment was due on January 15, 2020, and that he believed that was the date which fixed his appeal deadline. Plaintiff also represented that he was not a lawyer, and therefore had difficulty understanding the language contained in the Notice. No other reasons for failing to mail or fax the appeal by the January 13, 2020 deadline were provided by Plaintiff at any time during the proceedings below.

Based on the record, Plaintiff's appeal of the Notice of Fraud Decision was not mailed or faxed by January 13, 2020. The BOR's finding of this fact is not against the manifest weight of the evidence and is not clearly erroneous. Accordingly, the BOR's finding that the Department lost jurisdiction of this matter on January 14, 2020 is supported by the record and is appropriate. The BOR's decision must be affirmed.

In the course of his appeal to this Court, the Plaintiff has filed the following motions: (1) Motion for Halting and Reversing Tax Offset Action; (2) Motion to Add Complete Notice of Fraud Decision; and (3) Motion for Review of Evidence Faxed to IDES Referee. The Motion for Halting and Reversing Tax Offset Action is beyond the purview and jurisdiction of this Court in considering the appeal and is therefore denied. The other two motions are mooted by this Court's decision to affirm the BOR decision, and they are therefor denied. Regardless, nothing contained in the motions provided any evidence sufficient to provide a basis for this Court to hold that the BOR's decision was against the manifest weight of the evidence, or clearly erroneous, or contrary to law. Moreover, they provide no evidence that the record below contained evidence that Plaintiff's appeal of the Notice of Fraud Decision was timely. Likewise, they provide no basis for a finding that the late date of Plaintiff's appeal did not deprive the Department of jurisdiction as a matter of law due to the particular circumstances of this case and Plaintiff's filings.

For all the foregoing reasons, the Board of Review decision is affirmed.

ORDER

IT IS HEREBY ORDERED that the Board of Review decision be, and is hereby, AFFIRMED, the Court finding that the decision is not clearly erroneous; *8002*

IT IS FURTHER ORDERED that pursuant to Supreme Court Rule 304, there is no just cause to delay enforcement or appeal of this decision; and *9200*

IT IS FURTHER ORDERED that the status hearing of June 9, 2021 is stricken. *4304*

Enter: _____

Judge John J. Curry, Jr

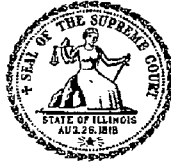
JUN 03, 2021 *JS*

Circuit Court - 2126



Judge

Judge's No.



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721
(217) 782-2035

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

November 30, 2022

In re: William Maskevich, petitioner, v. The Illinois Department of
Employment Security et al., respondents. Leave to appeal,
Appellate Court, First District.
128804

The Supreme Court today DENIED the Petition for Leave to Appeal in the above
entitled cause.

The mandate of this Court will issue to the Appellate Court on 01/04/2023.

Very truly yours,

A handwritten signature in black ink that reads "Cynthia A. Grant". The signature is written in a cursive style.

Clerk of the Supreme Court

APPENDIX C

Illinois Department of Employment Security
Board of Review
33 S State St
9th Floor
Chicago, IL 60603
Phone: (312) 793-5176 • TTY: (800) 244-5631
Fax: (630) 645-3731
www.ides.illinois.gov



WILLIAM F. MASKEVICH
4016 WASHINGTON RD APT 216
KENOSHA, WI 53144-1526

Date Mailed: 05/01/2020
Claimant ID: 4610542
Docket Number: 2003075
Appeal Filed Date: 03/17/2020

Board of Review Decision

(Este es un documento importante. Si usted necesita un intérprete, póngase en contacto con el Centro de Servicio al Reclamante al (800) 244-5631.)

Claimant Appellant

WILLIAM F. MASKEVICH
4016 WASHINGTON RD APT 216
KENOSHA, WI 53144-1526

Type of Appeal: Unreported earnings, Recoupment contest, and Fraud - Repayment - Ineligibility

| Issue | Benefit Period |
|---------|--------------------------|
| 239/402 | 07/22/2018 to 12/15/2018 |
| 900 | 07/22/2018 to 12/15/2018 |
| 901 | 07/22/2018 to 12/15/2018 |

PR 5.05

This is an appeal by the Claimant from a Referee's decision dated 02/21/2020, which dismissed for lack of jurisdiction, under Section 800 of the Illinois Unemployment Insurance Act, an appeal from the claims adjudicator's determination which held that the claimant was ineligible for benefits in whole or in part due to receipt of unreported earnings See 820 ILCS 405/239 and 402. The benefits paid to the claimant for which claimant was ineligible should be recovered or recouped in a certain amount. See 820 ILCS 405/900; 56 Ill. Adm. Code 2835. The claimant knowingly made a false statement or misrepresentation or knowingly failed to report a material fact in order to obtain benefits. See 820 ILCS 405/900 and 901; 56 Ill. Adm. Code 2835.

The employer is not a party to these proceedings.

Our review of the entire record in this case discloses that the claims adjudicator's determination was mailed to the Claimant's then last known address on 12/12/2019, along with a notice setting forth the right to file an appeal within thirty days. The Claimant's appeal was due on 01/13/2020. The Claimant did not file an appeal until 01/31/2020.

The issue presented by this appeal is whether the Referee was correct in dismissing the appeal for lack of jurisdiction. The Referee's jurisdiction to entertain appeals is limited by Section 800 of the Act which provides that a claims adjudicator's determination shall become final unless it is appealed to the Referee within thirty days of the date of the determination.

The Claimant failed to file an appeal within the thirty day time period. The Referee had no jurisdiction to review the matter and was required by law to dismiss the appeal.

The decision of the Referee is AFFIRMED.

(Este es un aviso importante respecto a sus derechos a repasar por los cortes. Si no entiende, busque un intérprete.)

Notice of rights for further review by the courts:

If you are aggrieved by this decision and want to appeal, you must file a complaint for administrative review and have summons issued in circuit court within 35 days from the mailing date, 05/01/2020.

You may only file your complaint in the circuit court of the county in which you reside or in which your principal place of business is

L02L



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APL002L

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APPENDIX D

C 107

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WILLIAM F. MASKEVICH

05/01/2020

located. If you neither reside nor have a place of business within Illinois, then you must file your complaint in the Circuit Court of Cook County.

Legal references:

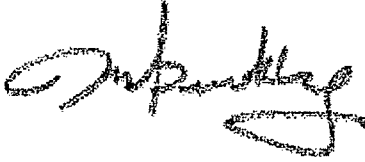
Illinois Unemployment Insurance Act, 820 Illinois Compiled Statutes 405/1100
Administrative Review Law, 735 Illinois Compiled Statutes 5/3-101 et seq.

TO: WILLIAM F. MASKEVICH, Claimant

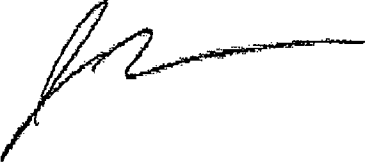
FILED DATE: 1/25/2021 11:01 AM 2020L050262

Board of Review

Docket Number: 2003075



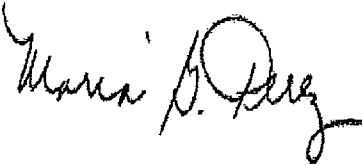
Meredith Buckley, Chairman



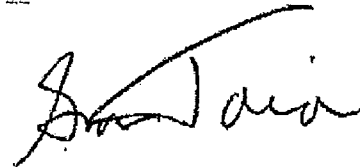
Jay Rowell, Board Member



Elbert Walters III, Board Member



Maria G. Perez, Board Member



Sam Toja, Board Member

Date and Mailed on 05/01/2020 at Chicago, Illinois

FILED DATE: 1/25/2021 11:01 AM 2020L050262

Date Mailed: 02/21/2020
 Claimant ID: 4610542
 Docket Number: 2003075
 Appeal Filed Date: 01/31/2020
 Date of Hearing: 02/20/2020
 Type of Hearing: Telephone
 Place of Hearing: Chicago

Administrative Law Judge's Decision

(Este es un documento importante. Si usted necesita un intérprete, póngase en contacto con el Centro de Servicio al Reclamante al (800) 244-5631.)

Claimant Appellant

WILLIAM F. MASKEVICH
4016 WASHINGTON RD APT 216
KENOSHA, WI 53144-1526

Appearances/Issues/Employer Status: The claimant appeared and testified. The claimant appeared without a representative. Whether an appeal from the claims adjudicator's Finding or Determination was filed within the 30 day time limit? See 820 ILCS 405/800; 56 Ill. Adm. Code 2720.200. Whether the Claimant was ineligible for benefits, in whole or in part due to receipt of unreported earnings? See 820 ILCS 405/239 and 402. Whether the benefits paid to the Claimant for which Claimant was ineligible should be recovered or recouped? If so, in what amount? See 820 ILCS 405/900; 56 Ill. Adm. Code 2835. Did Claimant knowingly make a false statement or misrepresentation or knowingly fail to report a material fact in order to obtain benefits? If so, what penalty should be imposed and what amount of benefits must be repaid or recouped? See 820 ILCS 405/900 and 901; 56 Ill. Adm. Code 2835. The employer is not a party to the appeal.

Findings of Fact: Department records show that this appeal was filed on 01/31/2020 from a Finding or Determination mailed to the appellant's last known address on 12/12/2019. 30 day statutory appeal period expired on 01/11/2020. It has not been shown that such records are in error.

Conclusion: 820 ILCS 405/800 provides that unless the claimant or any other party entitled to notice of the claims adjudicator's "Finding" or "Determination," as the case may be, or the Director, within 30 calendar days after the delivery of the claims adjudicator's notification of such "Finding" or "Determination," or within 30 calendar days after such notification was mailed to his last known address, files an appeal therefrom, such "Finding" or "Determination" shall be final as to all parties given notice thereof.

The claimant's late appeal leaves the ALJ without jurisdiction to hear this matter.

Decision: Pursuant to 820 ILCS 405/800, the appeal filed by the above appellant is untimely and dismissed.

BARBARA J. HEATHFIELD, Administrative Law Judge
Appeals - Chicago
Fax: (312) 338-6918

FURTHER APPEAL RIGHTS

A. LATE APPEAL: If this appeal was dismissed without a scheduled hearing on a finding the appeal was not filed in a timely manner under the provisions of 56 Ill. Adm. Code 2720.207, this dismissal may be appealed to the Board of Review.

B. FAILURE TO APPEAR: IF YOU FAILED TO APPEAR AT THE HEARING, then you may request a rehearing of the appeal, but only if you failed to appear. Your request for a rehearing must state the reason(s) you did not attend the hearing and why you did not request a continuance (or why a continuance was erroneously denied) (See 56 Ill. Adm. Code 2720.255(e) (1)) A request for rehearing must be made within 10 days of the scheduled hearing or first receipt of notice of hearing, whichever is later. A request for rehearing must be made in **writing**, to the Appeals Division, 33 S State St - 8th Floor, Chicago, IL 60603, directed to the Administrative Law Judge whose name appears on this decision. A request for rehearing may also be made by fax or email to the

WILLIAM F. MASKEVICH

02/21/2020

Administrative Law Judge.

You may also file an appeal to the Board of Review. It must be in writing and filed within 30 days from 02/21/2020.
See paragraph C. below.

C. If the decision is against you then you may file a further **APPEAL TO THE BOARD OF REVIEW**. An appeal to the Board of Review must be in writing and filed within 30 days from 02/21/2020. The appeal to the Board of Review must be mailed to the Board of Review at 33 S State St, 9th Floor, Chicago, IL, 60603 or by fax at (630) 645-3731.

TO: WILLIAM F. MASKEVICH, Claimant

FILED DATE: 1/25/2021 11:01 AM 2020L050262