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FILED
Aug 31 2010, 9:45 am
CLERK
of the supreme court, court of appeals and tax court

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IN THE
COURT OF APPEALS OF INDIANA

W.G.,	)	
	)	
Appellant-Petitioner,	)	
	)	
vs.	)	No. 93A02-1004-EX-389
	)	
REVIEW BOARD OF THE INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT and CLARIAN HEALTH PARTNERS, INC.,	)	
	)	
Appellees-Respondents.	)	

APPEAL FROM REVIEW BOARD OF THE INDIANA
DEPARTMENT OF WORKFORCE DEVELOPMENT
Cause No. 10-R-1364

August 31, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Petitioner, W.G., appeals the decision of Appellee-Respondent, Review Board of the Indiana Department of Workforce Development (Review Board), dismissing as untimely W.G.'s appeal from an adverse determination of eligibility for unemployment benefits.

We affirm.

ISSUE

W.G. raises one issue on appeal, which we restate as: Whether the Review Board properly affirmed the Administrative Law Judge's (ALJ) decision dismissing W.G.'s appeal as untimely.

FACTS AND PROCEDURAL HISTORY

On June 19, 2009, W.G. was discharged from her employment with Clarian Health Partners, Inc. Approximately one month later, a claims deputy with the Department of Workforce Development determined that W.G. was not eligible for unemployment insurance benefits because she "was discharged due to a work-related breach of duty." (Appellee's App. p. 7). On August 18, 2009, W.G. appealed the adverse determination of eligibility.

On March 1, 2010, the ALJ dismissed W.G.'s appeal for lack of jurisdiction. The ALJ found as follows:

> On Tuesday, August 18, 2009, [W.G.] attempted to file an appeal of a Determination of Eligibility issued by [the Department of Workforce Development] on Monday, July 27, 2009. It is apparent from the face of the Determination/Appeal that the appeal was not filed within the statutory thirteen (13) day time period for timely appeal.

(Appellee's App. p. 9). Based on these facts, the ALJ determined that he did not have "jurisdiction or authority to hear and decide the matter." (Appellee's App. p. 10). On March 10, 2010, W.G. appealed the dismissal of her appeal to the Review Board. Five days later, on March 15, 2010, the Review Board affirmed the ALJ's dismissal.

W.G. now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

Initially, we observe that one who proceeds *pro se* is held to the same established rules of procedure that a trained legal counsel is bound to follow and, therefore, must be prepared to accept the consequences of his or her action. *Ramsey v. Review Bd of Ind. Dep't. of Workforce Dev.*, 789 N.E.2d 486, 487 (Ind. Ct. App. 2003). While we prefer to decide cases on the merits, we will deem alleged errors waived where an appellant's compliance with the rules of appellate procedure is so substantial it impedes our appellate consideration of the errors. *Id*. The purpose of appellate rules, Indiana Appellate Rule 46 in particular, is to aid and expedite review and to relieve the appellate court of the burden of searching the record and briefing the case. We will not become an advocate for a party, nor will we address arguments which are either inappropriate, too poorly developed, or improperly expressed to be understood. *Id*.

In the case before us, W.G.'s appellate brief does not contain a cogent argument. *See* Ind. Appellate Rule 46(A)(8). Not only does W.G. omit to include a standard of review, her entire argument section is comprised of unsupported facts not in the record and fails to

reference any citations to the appendix or case law. Nevertheless, because the issue here is straightforward, we will address the merits of Appellant's case.

The Indiana Unemployment Compensation Act provides that any decision of the Review Board shall be conclusive and binding as to all questions of fact. Ind. Code § 22-4-17-12(a). Review Board decisions may, however, be challenged as contrary to law, in which case the reviewing court examines the sufficiency of the facts found to sustain the decision and sufficiency of the evidence to sustain the findings of fact. I.C. § 22-4-17-12(f). "Under this standard, we review determinations of specific or basic underlying facts, conclusions or inferences drawn from those facts, and legal conclusions." *Brown v. Ind. Dep't. of Workforce Dev.*, 919 N.E.2d 1147, 1150 (Ind. Ct. App. 2009).

When reviewing a decision by the Review Board, our task is to determine whether the decision is reasonable in light of its findings. *Id*. Our review of the Review Board's findings is subject to a "substantial evidence" standard of review. *Id*. In this analysis, we will neither reweigh the evidence nor assess witness credibility, and we consider only the evidence most favorable to the Review Board's findings. *Id*. Further, we will reverse the decision only if there is no substantial evidence to support the Review Board's findings. *Id*.

Here, the Review Board affirmed the ALJ's findings and conclusion which dismissed W.G.'s appeal as untimely. We agree. Indiana Code section 22-4-17-2(e) states, in part:

> In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim . . . or the denial thereof, . . . Except as otherwise hereinafter provided in this subsection . . . unless the claimant or such employer, within ten (10) days after such notification was mailed to the

> claimant's or the employer's last known address . . . asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

In addition, Indiana Code section 22-4-17-14(c) provides that "[i]f a notice is served through the United States mail, three (3) days must be added to a period that commences upon service of that notice." Thus, an aggrieved party seeking review of an eligibility determination must file an appeal within a maximum of thirteen days. "It is well settled that when a statute contains a requirement that an appeal or notice of the intention to appeal shall be filed within a certain time, strict compliance with the requirement is a condition precedent to the acquiring of jurisdiction, and non-compliance with the requirement results in dismissal of the appeal." *Quakenbush v. Review Bd. of the Ind. Dep't. of Workforce Dev.*, 891 N.E.2d 1051, 1053 (Ind. Ct. App. 2008).

Here, a claims deputy determined that W.G. was not eligible for unemployment benefits on July 27, 2009. Statutorily, W.G. could file a timely appeal up to August 9, 2009. However, August 9 was a Sunday, and therefore, W.G.'s final day to appeal was automatically extended to the next business day. *See* Ind. Trial Rule 6. Nevertheless, W.G.

did not file her appeal until August 18, 2009. As such, we conclude that W.G.'s appeal was untimely and the Review Board properly dismissed the cause.

CONCLUSION

Based on the foregoing, we conclude that the Review Board properly affirmed the ALJ's decision dismissing W.G.'s appeal as untimely.

Affirmed.

KIRSCH, J., and BAILEY, J., concur.