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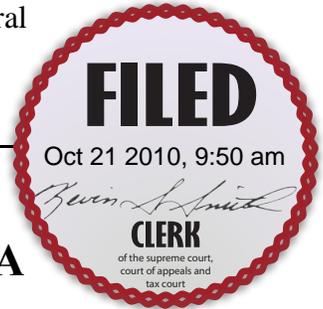
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**IN THE
COURT OF APPEALS OF INDIANA**

J.H.,)
)
Appellant,)
)
vs.)
)
REVIEW BOARD OF THE INDIANA)
DEPARTMENT OF WORKFORCE)
DEVELOPMENT,)
)
Appellee.)

No. 93A02-1005-EX-607

APPEAL FROM THE REVIEW BOARD OF THE
DEPARTMENT OF WORKFORCE DEVELOPMENT
The Honorable Steven F. Bier, Chairperson
The Honorable George H. Baker, Member and The Honorable Larry A. Dailey, Member
Cause No. 10-R-2430

October 21, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

J.H., pro se, appeals the dismissal of his appeal before the Review Board of the Indiana Department of Workforce Development (the “Review Board”).

We affirm.

ISSUE

Whether the Review Board erred in dismissing J.H.’s appeal.

FACTS

On or about October 7, 2009, J.H.’s employer terminated his employment. J.H. subsequently applied for unemployment benefits with the Indiana Department of Workforce Development (the “DWD”). On November 12, 2009, the DWD suspended J.H.’s unemployment benefits after determining that he had been discharged for just cause.

On November 20, 2009, J.H., proceeding pro se, filed an appeal of the DWD’s determination. On March 18, 2010, the DWD held an evidentiary hearing, with an Administrative Law Judge (“ALJ”) presiding. The ALJ affirmed the DWD’s determination on March 25, 2010.

On March 26, 2010, the DWD mailed a notice of the decision to J.H. The notice stated that the decision would become final “unless the party receiving the adverse Decision appeals to the Review Board within eighteen (18) calendar days after the mailing date of this decision.” (App. 2A). On April 29, 2010, J.H. appealed the ALJ’s decision to the Review Board. On May 7, 2010, the Review Board dismissed J.H.’s appeal as untimely and therefore did not reach the merits of his claim.

DECISION

J.H. asserts that the ALJ improperly determined that his employer terminated him for just cause. He, however, fails to address the dismissal of his appeal by the Review Board, which is dispositive.¹

“The time period for perfecting an appeal from an ALJ’s determination is statutorily defined.” *Szymanski v. Review Bd. of Workforce Dev.*, 656 N.E.2d 290, 292 (Ind. Ct. App. 1995). Indiana Code section 22-4-17-3(b) provides that an ALJ’s decision as to unemployment benefits “shall be deemed to be the final decision of the review board, unless within fifteen (15) days after the date of notification or mailing of such decision, an appeal is taken . . . to the review board” by any party adversely affected by the ALJ’s decision. (Emphasis added). Indiana Code section 22-4-17-14(c) provides that if the notice is served through the United States mail, three days must be added to the time by which the appeal must be taken to the review board. Thus, a party seeking

¹ Although J.H. is proceeding pro se, we note that “it has long been the rule in Indiana that pro se litigants without legal training are held to the same standard as trained counsel and are required to follow procedural rules.” *Receveur v. Buss*, 919 N.E.2d 1235, 1238 n.4 (Ind. Ct. App. 2010), *trans. denied*.

review of an ALJ's determination must file an appeal within eighteen days of the date the notice of the determination is mailed. *Szymanski*, 656 N.E.2d at 293. “[S]trict compliance with th[is] requirement is a condition precedent to the acquiring of jurisdiction, and non-compliance with the requirement results in dismissal of the appeal.”

Id.

The record in this case shows that the ALJ's decision was mailed on March 26, 2010. Thus, J.H.'s appeal to the Review Board was due on April 13, 2010. J.H., however, did not file his appeal until April 29, 2010. Due to J.H.'s untimely appeal, the Review Board did not have jurisdiction to review the ALJ's decision. We therefore find that the Review Board properly dismissed J.H.'s appeal.

Affirmed.

BRADFORD, J., and BROWN, J., concur.