

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

RICHARD F. STOKES  
JUDGE

SUSSEX COUNTY COURTHOUSE  
1 THE CIRCLE, SUITE 2  
GEORGETOWN, DE 19947  
TELEPHONE (302) 856-5264

January 8, 2013

Terrell Herring  
703 N. Cannon St.  
Bridgeville, DE 19933

Thomas H. Ellis, Esquire  
Department of Justice  
820 North French Street  
Wilmington, DE 19801

RE: ***Herring v. Unemployment Ins. Appeal Bd.***  
C.A. No. S12A-05-004 RFS

Submitted: December 12, 2012

Decided: January 8, 2013

Dear Mr. Herring and Counsel:

Claimant Terrell Herring has filed an appeal of a decision of the Unemployment Insurance Appeal Board (“Board”). The Board adopted the findings and conclusions of the Appeals Referee and found that Claimant had exhausted his unemployment benefits. The Court affirms.

The record shows the following. Claimant filed for unemployment insurance benefits with the Department of Labor (DOL) effective July 4, 2010. He received 24 weeks of state benefits. He also received 47 weeks of benefits under Congress’ Emergency Unemployment Compensation Plan (“EUC plan”). Upon exhaustion of the federal benefits, Claimant received 12 additional weeks of benefits on a State extension plan.

In February 2012, the DOL sent Claimant notice that he had exhausted his unemployment benefits. Claimant appealed. A DOL claims deputy found that Claimant’s benefits were exhausted and that he was ineligible for further benefits. The appeals referee conducted a hearing and concluded that Claimant exhausted his state and federal unemployment benefits pursuant to 19 *Del.C.* § 3326(e). The Board conducted a hearing and affirmed.

Claimant acknowledges receipt of the benefits which the DOL representative stated had been sent to him. However, he argues that he is entitled to additional benefits because on December 31, 2011 he received a Notice of Determination stating that he may be entitled to further benefits. He

then received a letter dated February 4, 2012 stating that his benefits were exhausted. Claimant argues that he is entitled to benefits pursuant to the letter of December 31, 2011.

The testimony of the DOL representative to the appeals referee resolves this apparent contradiction. Claimant received an overpayment on his extended benefits (“EB”) code fund 13 claim. This was not discovered by DOL until Claimant was receiving benefits on his EB fund code 14 claim. When he was notified of the overpayment, Claimant paid back the overpayment money, which DOL put back into fund code 13. Because that fund was no longer empty, the fund code 14 payments temporarily ceased, and the fund code 13 payments (that is, the recoupment funds) were reinstated. When fund code 13 was exhausted, the DOL picked up the fund code 14 claim where it had stopped. The DOL computer system automatically sent Claimant a Notice of Determination form letter from the fund code 13 claim stating that further benefits may be available. The form letter regarding fund code 14 stated that Claimant’s benefits were exhausted and no further benefits were available to him.

In other words, Claimant received the benefits to which he was entitled, despite the confusion resulting from the overpayment and the resulting form letter of December 13, 2012.

The Board’s attorney acknowledges the complexity of the unemployment system created by joint programs from the State plan and the federal EUC plan. He concedes that the DOL’s letters, automatically generated by a computerized system, were hard to resolve in the absence of an explanation. However, he argues that Claimant received the benefits available to him.

The Court is satisfied that Claimant received the state and federal unemployment benefits for which he was eligible. The Board’s findings are supported evidence and the decision is free from errors of law.<sup>1</sup>

The decision of the Board affirming the appeals referee is **AFFIRMED**.

**IT IS SO ORDERED.**

Very truly yours,

/s/ Richard F. Stokes

Richard F. Stokes

Original to Prothonotary

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<sup>1</sup>*Oceanport Ind. v. Wilmington Stevedores*, 636 A.2d 892 (Del.1994).