

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

ROBERT RAGLAND,	:	
	:	C.A. No. K13A-07-001 WLW
Appellant,	:	
	:	
v.	:	
	:	
ARAMARK CAMPUS, LLC and	:	
UNEMPLOYMENT INSURANCE	:	
APPEALS BOARD,	:	
	:	
Appellee.	:	

Submitted: April 8, 2014

Decided: April 30, 2014

ORDER

Upon an Appeal from the Decision of the
Unemployment Insurance Appeals Board.

Dismissed.

Robert Ragland, *pro se*

James T. Wakley, Esquire of the Department of Justice, Wilmington, Delaware;
attorney for the UIAB.

Witham, R.J.

Before the Court is the *pro se* appeal of Appellant Robert Ragland (hereinafter “Appellant”) from the decision of the Unemployment Insurance Appeals Board (hereinafter “the Board” or “the UIAB”) disqualifying Appellant from receiving unemployment benefits. Appellant has not filed an opening brief despite this Court’s extension of the filing deadline. Because Appellant has failed to diligently pursue this Appeal, the Board’s decision is affirmed.

BACKGROUND

Appellant was employed as a part-time dishwasher with Aramark Campus, LLC (hereinafter “Employer”) from November 2012 until March 29, 2013. Appellant’s last actual day of work was February 19. On February 20, Appellant’s podiatrist placed Appellant on work restriction for two weeks due to a foot issue. Another physician ultimately placed Appellant in a cast, and Appellant remained on work restriction per his doctor’s orders.

Employer placed Appellant on an unpaid leave of absence that was to end on March 29, 2013. On March 29, Appellant was still restricted from working due to his cast, thus Employer terminated Appellant’s employment because of Appellant’s inability to return to work. Employer told Appellant that he was eligible to reapply for his old position once Appellant’s medical issues were resolved. Appellant subsequently filed his claim for unemployment benefits, effective February 17, 2013. On March 14, 2013 a Claims Deputy with the Department of Labor disqualified Appellant from receiving unemployment benefits under 19 *Del. C.* § 3314(8) based on Appellant’s inability to work. Appellant appealed the determination, and

following a telephone hearing, the Appeals Referee affirmed the determination on April 4, 2013. Appellant appealed again, and a hearing was held before the Board on June 12, 2013. The Board subsequently affirmed the Appeals Referee's decision.

Appellant subsequently filed the instant appeal with this Court. On October 9, 2013 the Court issued a briefing schedule, pursuant to which Appellant's opening brief was due on October 31, 2013. By handwritten letter dated November 12, 2013 Appellant requested an extension of the deadline for his opening brief. Appellant stated he was seeking an attorney to represent him in his appeal, and requested an extension of 60 days in order to hire an attorney.

The Court granted Appellant's request for an extension and issued a new scheduling order, under which Appellant's opening brief was due on December 30, 2013. Appellant never submitted an opening brief. On February 21, 2014 the Court mailed a delinquent letter to the parties, advising the parties that the appeal may be dismissed if the required briefs were not filed. Appellant never responded to the letter. Neither Employer nor the Board have submitted any filing in this matter.

LEGAL STANDARD

Rule 107(f) of the Superior Court Rules of Civil Procedure provides that if a brief is not filed in the time and manner required by the Court's rules or in accordance with any Court order, the Court may "in its discretion, dismiss the proceeding if the plaintiff is in default, consider the motion as abandoned, or. . .take such other action as necessary to expedite the disposition of the case."¹ Civil Rule 72(i) further

¹ Del. Super Ct. Civ. R. 107(f).

provides that a Court may dismiss an appeal *sua sponte* for, *inter alia*, “failure of a party diligently to prosecute the appeal. . .or for any other reason deemed by the Court to be appropriate.”² Generally, *pro se* litigants are afforded a degree of latitude in presenting their cases, but regardless of whether they are represented by counsel or litigating *pro se*, litigants “must diligently prepare their cases for trial or risk dismissal for failure to prosecute.”³ This is because “the trial court should not sacrifice the orderly and efficient administration of justice to accommodate an unrepresented plaintiff.”⁴

DISCUSSION

The Court need not address the merits of Appellant’s appeal, because Appellant has, based on his failure to file an opening brief and lack of communication with the Court, abandoned his appeal.

After Appellant initially failed to file his opening brief by the deadline, the Court granted Appellant a 60-day extension upon Appellant’s request, so that Appellant could retain representation. Appellant again failed to file an opening brief prior to the expiration of the extended deadline. No opening brief or explanation for the failure to file an opening brief appears forthcoming, even after the Court sent a delinquent letter to the parties.

² Del. Super. Ct. Civ. R. 72(i).

³ *Buck v. Cassidy Painting, Inc.*, 2011 WL 1226403, at *2 (Del. Super. Mar. 28, 2011) (citations omitted).

⁴ *Id.*

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Appellant already received a second chance from this Court when Appellant's request for a 60-day extension was granted. He shall not receive a third. Pursuant to this Court's discretion under Civil Rule 72(i), Appellant's appeal is dismissed for failure to diligently prosecute.

CONCLUSION

Appellant's appeal from the decision of the Board is **DISMISSED** *sua sponte* for failure to diligently prosecute.

IT IS SO ORDERED.

/s/ William L. Witham, Jr.
Resident Judge

WLW/dmh