

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY

DANA HOCKENSMITH,

:

C.A. No: K14A-12-002 JJC

\_\_\_\_\_Appellant,

:

:

:

v.

:

:

UNEMPLOYMENT INSURANCE  
APPEALS BOARD,

:

:

:

Appellee.

:

*Submitted: April 20, 2015*

*Decided: April 22, 2015*

*Upon Consideration of Appellant's Appeal from  
the Unemployment Insurance Appeal Board*

**REMANDED**

**ORDER**

Dana Hockensmith, *Pro Se*.

Paige J. Schmittinger, Esquire, Deputy Attorney General, Department of Justice,  
Wilmington, Delaware for The Unemployment Insurance Appeals Board.

Clark, J.

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*Hockensmith v. UIAB*  
*K 14A-12-002 JJC*  
*April 22, 2015*

\_\_\_\_\_The present appeal arises from the Unemployment Insurance Appeal Board's (hereinafter "Board") decision that Appellant Dana Hockensmith (hereinafter "Appellant") filed an untimely appeal of a claims deputy's overpayment determination. The Board held that she did not file a timely appeal and as a result would not consider it. The sole issue before the Court is the timeliness of that appeal. In her appeal, Appellant disputes the date this claim deputy's overpayment determination and appeals notice was mailed to her. She asserts that she did file a timely appeal.

Section 3318(b), Title 19 of the Delaware Code provides that such appeals are timely if filed within ten (10) calendar days after a claims deputy's determination was "mailed." Here, on the face of the documents presented, there is a legitimate question as to whether claimant's appeal was timely. With her Opening Brief, Appellant submitted copies of postmarked envelopes which she contends contained the overpayment determinations which were dated days after the Board certified that the notices were mailed. It is clear, however, that this evidence was never presented to the Board below. Accordingly, the Board was not able to consider it.

To the Board's credit, upon review of this new evidence, it has requested that the matter be remanded for its consideration. On the day that the Board's Answering Brief was due, it made this letter request through counsel.

Accordingly, this matter is hereby **REMANDED** to the Unemployment Insurance Appeals Board with the instruction that both parties are permitted to supplement evidence to further develop the record regarding the timeliness of

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Appellant's appeal below, and for the Unemployment Insurance Appeals Board to conduct further proceedings consistent with this decision.

IT IS SO ORDERED.

*/s/ Jeffrey J Clark*

J.

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JJC/dmd

oc: Prothonotary

cc: Ms. Hockensmith, *Pro se*  
Paige J. Schmittinger, Esq.  
File