IN THE SUPREME COURT OF THE STATE OF DELAWARE

	§	
BLAINE BRADFIELD,	§	No. 197, 2012
	§	
Appellant Below,	§	
Appellant,	§	Court Below: Superior Court of
	§	the State of Delaware, in and for
v.	§	Sussex County
	§	
UNEMPLOYMENT INSURANCE	§	C.A. No. S11A-05-004
APPEAL BOARD,	§	
	§	
Appellee Below,	§	
Appellee.	§	
	§	

Submitted: August 15, 2012
Decided: August 31, 2012

Before **HOLLAND**, **BERGER** and **JACOBS**, Justices.

O R D E R

This 31st day of August 2012, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

1. Blaine Bradfield, the appellant-below ("Bradfield"), appeals from 15 separate decisions of the Unemployment Insurance Appeal Board ("UIAB"), ordering him to repay over $33,000 in dispensed unemployment benefits. Bradfield argues that the UIAB erroneously permitted the State Department of Labor ("DoL") to engage in improper "claim splitting," by pursuing separate proceedings for fraud and recoupment. Alternatively, he argues that the UIAB

abused its discretion by refusing to hear appeals from five initial fraud determinations, because the time to appeal had expired. We find no merit to these claims and affirm.

2. Bradfield was a bartender in Bethany Beach. He applied for unemployment benefits during the "offseason period" while he was working infrequently, but failed to report all of his income to the DoL. On January 18, 2011, a DoL claims deputy issued five "fraud disqualification determinations," finding that Bradfield had fraudulently underreported his wages for years 2006 through 2010. Because Bradfield did not timely appeal from those determinations, they became final on January 28, 2011. The DoL then issued a series of 15 "overpayment determinations," seeking to recoup more than $33,000 from Bradfield. Bradfield appealed from those determinations. After a hearing a DoL appeals referee affirmed those findings. Bradfield then appealed to the UIAB, which affirmed, and thereafter to the Superior Court, which again affirmed. His appeal to this Court followed.

3. Bradfield's primary claim on appeal is that the manner in which the DoL prosecuted its claims against him—by first making "fraud disqualification determinations" and then by making "overpayment determinations"—constituted improper "claim splitting." Alternatively, Bradfield claims that he should have been allowed to appeal the DoL's five initial "fraud disqualification

determinations," despite his failure to file a timely appeal. We review decisions of the UIAB to ensure that factual findings are supported by evidence.[1] We review questions of law *de novo*.[2]

4. Bradfield argues that the DoL was required to bring its recoupment action for repayment of benefits concurrently with its initial "fraud disqualification determination." That agency's failure to bring both actions concurrently, Bradfield argues, rendered its later recoupment action improper "claim splitting." The legal prohibition on "claim splitting" invoked by Bradfield is a species of the *res judicata* doctrine. As this Court recently described it, the "rule against claim splitting" is "based on the belief that it is fairer to require a plaintiff to present in one action all of his theories of recovery . . . than to permit him to prosecute overlapping or repetitive actions in different courts or at different times."[3]

5. That policy concern is not implicated here, for two reasons. *First*, *res judicata* is a common law doctrine, and Bradfield's "claim splitting" argument assails a procedure mandated by statute. Under the statute, the DoL must first issue a "fraud disqualification determination," which results in the termination of the recipient's benefits. Only after that determination becomes final can the DoL

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[1] *UIAB v. Div. of Unemp't Ins.*, 803 A.2d 931, 936 (Del. 2002).

[2] *Stanford v. MERB*, 44 A.3d 923 (Del. 2012).

[3] *Wilson v. Brown*, 36 A.3d 351 (Del. 2012) (citation omitted).

issue "overpayment determinations" seeking recoupment of specific amounts.[4] According to the State, that procedure has been in place in Delaware since a 1985 amendment to the Delaware Code.

6. *Second*, the Superior Court found that the DoL's statutorily mandated bifurcated procedure was not prohibited "claim splitting," because it posed no risk to Bradfield of "harassment due to a multiplicity of suits."[5] The DoL (the trial court held) was not seeking "to take two bites at the [proverbial] apple."[6] That court also correctly held that the DoL's recoupment actions were not barred by *res judicata*: the DoL did not raise a new "theor[y] of recovery,"[7] no factual or legal issues were re-litigated, and no risk of harassment or double recovery was created. Because *res judicata* is inapplicable, Bradfield's first claim lacks merit.

7. Separately, Bradfield contends that we should permit him to challenge the DoL's initial determinations of fraud despite his failure to appeal from them on a timely basis. His justification for this argument is that he did not actually intend to defraud the State—he believed that the DoL knew how much income he was earning and was issuing him unemployment checks accordingly. Bradfield's case,

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[4] 19 *Del. C.* § 3325 permits the DoL to issue a "notice of overpayment and an order for recoupment," but only if it is first "finally determined" that the respondent "was not entitled" to benefits.

[5] *Bradfield v. UIAB*, C.A. No. S11A-05-004, at 6 (Del. Super. Mar. 13, 2012).

[6] *Id.* at 5.

[7] *Wilson v. Brown*, 36 A.3d 351 (Del. 2012).

however, does not fall within the narrow category of "severe" circumstances under which the UIAB will consider untimely appeals. That is, Bradfield's failure to respond to the DoL's notices of determinations was not caused by the State's administrative error, nor would such a waiver here clearly serve "the interests of justice."[8] Therefore, Bradfield's second claim also fails.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

[8] *Funk v. UIAB*, 591 A.2d 222, 225-26 (Del. 1991).