

benefits as of 03/03/19, in accordance with N.J.S.A. 43:21-5(a).

The determinations of the Deputy is affirmed.

/s/ Terrence Moran
APPEALS EXAMINER

UA



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00176898
Date of Claim: 03/03/2019
Date of Appeal: 05/31/2019
PC : 10
Appellant: Claimant
Mailing Date: 06/28/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

POSTPONEMENT DECISION

EMPLOYER: UBER TECHNOLOGIES, INC.

The claimant appealed from a decision of the Appeal Tribunal which affirmed the determination of the Deputy and held the claimant disqualified for benefits from 3/3/19.

The Board of Review, by order mailed on 5/31/19, remanded the matter to an Appeal Tribunal for rehearing and a new decision.

The claimant, with counsel, participated in a telephone hearing on 04/09/19.
A second hearing was scheduled for 6/28/19.

FINDINGS OF FACT:

The claimant appealed on 03/20/19 from a determination of the Deputy, mailed on 03/14/19, imposing a disqualification for benefits from 03/03/19 on the ground that the claimant left work voluntarily without good cause attributable to the work.

The appeal is hereby postponed, without prejudice for the reason(s) noted below.

The original examiner was not available.

OPINION:

As the original examiner was not available, the appeal is postponed without prejudice. The case will be rescheduled as soon as possible

This decision applies only to the period covered by the determination from which the appeal was

filed.

Important: All parties must register for the next and any other duly scheduled subsequent hearings as instructed on the Notice of Phone Hearing.

DECISION:

The appeal is postponed without prejudice.

Important: All parties must register for the next and any other duly scheduled subsequent hearings as instructed on the Notice of Phone Hearing.

/s/ Michael Grande
APPEALS EXAMINER

UA



Board of Review
PO Box 937
Trenton, NJ 08625-0937

SS #:
Docket #: DKT00176898
Date of Claim: 03/03/2019
Date of Appeal: 05/03/2019
Mailing Date: 05/31/2019

Decision of the Board of Review

IN THE MATTER OF:

ORDER TO REMAND

EMPLOYER: UBER TECHNOLOGIES, INC.

The claimant having filed a timely appeal from a decision of the Appeal Tribunal mailed April 12, 2019; and

It appearing there is need for additional testimony from the claimant, the employer and a State auditor to ascertain whether the claimant is an employee or an independent contractor;

IT IS ORDERED that the case is remanded to the Appeal Tribunal for a hearing and a decision on all issues.

IT IS FURTHER ORDERED that a copy of any new Decision or Order resulting from this remand shall, immediately upon issuance, be transmitted to the Executive Secretary of the Board of Review.

NOTE: This matter will be scheduled for an Appeal Tribunal hearing as soon as possible and you will be notified in writing of the date, time and place of the hearing. If you have any questions regarding the scheduling of this hearing, they should be referred to the Appeal Tribunal, Department of Labor, PO BOX 936, Trenton, NJ 08625-0936.

BOARD OF REVIEW

Joseph Sieber
Nancy Hunt



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00176898
Date of Claim: 03/03/2019
Date of Appeal: 03/20/2019
PC : 10
Appellant: Claimant
Mailing Date: 04/12/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

EMPLOYER: UBER TECHNOLOGIES, INC.

The claimant appealed on 03/20/19 from a determination of the Deputy, mailed on 03/14/19, imposing a disqualification for benefits from 03/03/19 on the ground that the claimant left work voluntarily without good cause attributable to the work.

The claimant, with counsel, participated in a telephone hearing on 04/09/19.

FINDINGS OF FACT:

The claimant was employed as a driver for the above-named employer, from 03/2014 through 02/27/19.

The claimant, on 02/27/19, was separated from employment occurred due to the claimant's loss of a prerequisite for the job. The claimant was required to possess a vehicle that met their company standards. The claimant's vehicle was damaged in an accident.

The employer, on 03/04/19, closed their mobile application to the claimant. The claimant could no longer access their mobile application because the claimant's vehicle incurred too much damage and was not operational.

The claimant can not drive for the employer until all of vehicle damages are repaired.

OPINION:

N.J.S.A. 43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight weeks in employment, which may include employment for the federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and

harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract. This subsection shall not apply to an individual who voluntarily leaves work with one employer to accept from another employer employment which commences not more than seven days after the individual leaves employment with the first employer, if the employment with the second employer has weekly hours or pay not less than the hours or pay of the employment of the first employer, except that if the individual gives notice to the first employer that the individual will leave employment on a specified date and the first employer terminates the individual before that date, the seven-day period will commence from the specified date.

“Where it is reasonably foreseeable that an employee's voluntary conduct will render him unemployable, and his actions actually do lead to the loss of a prerequisite of employment, the employee leaves work voluntarily without good cause attributable to such work under N.J.S.A. 43:21-5(a). A driver's license is a prerequisite of employment for those, such as Sparks, who drive for a living. Nevertheless, Sparks jeopardized his license by engaging in a foolish, voluntary act. As such, he cannot claim to be the sort of 'involuntarily unemployed' individual that the Unemployment Compensation Act is designed to protect. “Yardville Supply Co. vs. Board of Review, Dept. of Labor, 114 N.J. 371, 377 (1989).

Similarly, in this case, the claimant lost a prerequisite of the employment as a driver, when his vehicle became too damaged and not operational which caused the claimant to be voluntarily disqualify from the employer's mobile application to access work. The claimant's separation due to loss of a prerequisite of employment is considered voluntary and without good cause attributable to such work. Therefore, a disqualification is imposed under N.J.S.A. 43:21-5(a), as of 03/03/19.

DECISION:

A disqualification for benefits is imposed under N.J.S.A. 43:21-5(a), as of 03/03/19 as the claimant left work voluntarily without good cause attributable to the work.

The determination of the Deputy is affirmed.

/s/ Terrence Moran
APPEALS EXAMINER

UA



Board of Review
PO Box 937
Trenton, NJ 08625-0937

SS #:
Docket #: DKT00176114
Date of Claim: 01/13/2019
Date of Appeal: 06/09/2019
Mailing Date: 07/24/2019

Decision of the Board of Review

IN THE MATTER OF:

EMPLOYER #1: UBER TECHNOLOGIES, INCORPORATED
EMPLOYER #2:

The claimant filed a timely appeal from a decision of the Appeal Tribunal mailed April 10, 2019.

This matter is reviewed on the record below.

FINDINGS OF FACT AND OPINION:

The Findings of Fact and Opinion as developed by the Appeal Tribunal and the allegations of the appellant have been carefully examined.

Since the appellant was given a full and impartial hearing and a complete opportunity to offer any and all evidence, there is no valid ground for a further hearing.

On the basis of the record below, we agree with the decision reached.

DECISION:

The decision of the Appeal Tribunal is affirmed.

BOARD OF REVIEW

Joseph Sieber
Nancy Hunt



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00176114
Date of Claim: 01/13/2019
Date of Appeal: 05/02/2019
PC : 10
Appellant: Claimant
Mailing Date: 05/21/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

AMENDED DECISION OF THE APPEAL TRIBUNAL

The decision of the Appeal Tribunal (docket #176114), mailed on 04/10/2019, is amended in bold and italics as follows to address a misapplication of the law regarding the claimant's separation from employer #2.

EMPLOYER #1: UBER TECHNOLOGIES, INCORPORATED
EMPLOYER #2:

For good cause shown, this matter is reopened as of 05/02/2019.

The claimant participated in telephone hearings on 03/28/2019 and 04/10/2019. The decision is based on testimony adduced at both hearings.

FINDINGS OF FACT:

The claimant appealed on 03/12/2019 from a determination of the Deputy, mailed on 02/21/2019, imposing a disqualification for benefits from 12/09/2018 on the ground that the claimant left employer #2 voluntarily without good cause attributable to the work.

The claimant worked for employer #1, as a delivery driver earning \$11 per hour from 06/2015 through 11/2018, when he was separated from employment because his license had been suspended. The claimant's license was suspended in late 2017 for about one (1) week. At the time of the claimant's separation from employer #1, he had restored his driver's license. The company policy for employer #1 prohibits employment within a three (3) year period of the employees license being suspended.

The claimant worked for employer #2, as a delivery driver. The claimant worked for employer #2 from 12/2017 through 12/06/2018, at which time the claimant was in a car accident. The

claimant's car was inoperable and as a result he had no transportation to perform his job duties with employer #2. The claimant was aware upon hire that he needed his own personal transportation in order to accept the employment.

A claim for benefits was filed 01/13/2019, with a weekly benefit rate of \$192 and a maximum benefit amount of \$4,992. No benefits were paid thereon.

The Deputy mailed the determination to the claimant's address of record on 02/21/2019. The claimant did not receive the determination. On or about 03/01/2019, the claimant went to the local office and he was informed by a Division representative that his benefits were denied and to file an appeal. The claimant was not provided any other information by the Division representative. The claimant searched the Internet on how to file an appeal. Later, he contacted the Division for pertinent information that he needed to file his appeal. On 03/12/2019, the claimant first filed his appeal.

OPINION:

N.J.A.C. 1:12-18.4 Reopening Appeal Tribunal decisions

(a) In the absence of jurisdiction by the Board of Review, a party to a benefit claim may file a request for reopening of an Appeal Tribunal decision if:

- 1. The party's appeal to the Board of Review was dismissed as late without good cause;***
- 2. The party did not appear at the Appeal Tribunal hearing for good cause shown;***
- 3. The party is seeking to amend the Appeal Tribunal decision due to a mistake in law or computation thereby affecting the legal conclusion of the Appeal Tribunal; or***
- 4. The party has new or additional evidence.***

(b) Such request shall be submitted as promptly as possible, shall not act as a stay of proceedings in the case, and shall not suspend the payment of benefits. Additional time for such request may be granted where fraud, newly discovered evidence, or other good cause is shown.

(c) The Appeal Tribunal shall notify all interested parties of the request for reopening. The parties shall have 10 days to submit written arguments. After reviewing the matter, the Appeal Tribunal will schedule a hearing, issue an amended decision, or deny the request in an order explaining the reasons. All interested parties will be notified by the Appeal Tribunal of any subsequent decision or order which shall contain appeal rights to the Board of Review.

In accordance with N.J.A.C. 1:12-18.4(c), interested parties were notified of a request to reopen an appeal for amendment. Parties were given ten (10) days from the date of the mailing to respond in writing. In the matter of Docket #176114, notices were mailed to all parties on 05/02/2019. As of 05/13/2019, the Appeal Tribunal has not received a written response from any interested party.

As to the matter of the claimant's appeal of the Deputy's determination, which held him disqualified for benefits from 12/09/2018, the Tribunal reopens the matter on its own motion; as provided by N.J.A.C. 1:12-18.4(c).

N.J.S.A. 43:21-6(b)(1) provides that an appeal must be filed within ten (10) days of the mailing

of the determination, or within seven (7) days of the receipt of the determination.

N.J.A.C. 12:20-3.1 Presentation of appealed claims:

(h) An appeal shall be considered on its merits if it is filed within seven calendar days after delivery of the initial determination or within 10 calendar days after such notification was mailed to the appellant's last known address, with the exception of an appeal filed pursuant to *N.J.S.A. 43:21-55.1*, which shall be considered on its merits if it is filed within 20 calendar days after delivery of the initial determination or within 24 calendar days after such notification was mailed to the appellant's last known address. Delivery of notification of an initial determination means actual receipt of the determination by the claimant or any interested party to the appeal.

(i) A late appeal shall be considered on its merits if it is determined that the appeal was delayed for good cause. Good cause exists in circumstances where it is shown that:

1. The delay in filing the appeal was due to circumstances beyond the control of the appellant; or
2. The appellant delayed filing the appeal for circumstances which could not have been reasonably foreseen or prevented.

In this case, the claimant did not receive the determination. The claimant was informed by a Division representative to file an appeal on or about 03/01/2019. On 03/12/2019, the claimant first filed his appeal. The claimant's appeal was filed late with good cause in accordance with N.J.S.A. 43:21-6(b)(1) and N.J.A.C. 12:20-3.1.

N.J.S.A. 43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight weeks in employment, which may include employment for the federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract.

N.J.A.C. 12:17-9.1 Disqualification for voluntarily leaving-general principles

(a) An individual shall be disqualified for benefits for the week in which he or she has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight weeks in employment, which may include employment for the Federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case. See N.J.S.A. 43:21-5(a).

(b) For the purpose of this subchapter, "good cause attributable to such work" means a reason related directly to the individual's employment, which was so compelling as to give the individual no choice but to leave the employment.

(c) The burden of proof is on the claimant to establish good cause attributable to such work for leaving.

(d) An individual who leaves work for several reasons, one of which constitutes good cause attributable to such work, shall not be disqualified for benefits.

(e) An individual's separation from employment shall be reviewed as a voluntarily leaving work issue where the separation was for the following reasons including, but not limited to:

1. Lack of transportation;

In this case, the claimant left his employment with employer #2 due to lack of transportation. A lack of transportation is a personal reason. A personal reason for leaving employment is not good cause attributable to the work. Therefore, the claimant is disqualified for benefits as of 12/02/2018, in accordance with N.J.S.A. 43:21-5(a) and N.J.A.C. 12:17-9.1(e)1.

DECISION:

The decision of the Appeal Tribunal (docket #176114), mailed on 04/10/2019, was reopened for an amended decision to be issued, in accordance with N.J.A.C. 1:12-18.4

The claimant's appeal was filed late with good cause in accordance with N.J.S.A. 43:21-6(b)(1) and N.J.A.C. 12:20-3.1.

The claimant is disqualified for benefits as of 12/02/2018, in accordance with N.J.S.A. 43:21-5(a) and N.J.A.C. 12:17-9.1(e)1.

The determination of the Deputy is *affirmed, but modified to the date of disqualification.*

/s/ Gwendolyn AT Washington
APPEALS EXAMINER

UA



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00176114
Date of Claim: 01/13/2019
Date of Appeal: 03/12/2019
PC : 10
Appellant: Claimant
Mailing Date: 04/10/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

EMPLOYER #1: UBER TECHNOLOGIES, INCORPORATED
EMPLOYER #2:

The claimant appealed on 03/12/2019 from a determination of the Deputy, mailed on 02/21/2019, imposing a disqualification for benefits from 12/09/2018 on the ground that the claimant left employer #2 voluntarily without good cause attributable to the work.

The claimant participated in telephone hearings on 03/28/2019 and 04/10/2019. The decision is based on testimony adduced at both hearings.

FINDINGS OF FACT:

The claimant worked for employer #1, as a delivery driver earning \$11 per hour from 06/2015 through 11/2018, when he was separated from employment because his license had been suspended. The claimant's license was suspended in late 2017 for about one (1) week. At the time of the claimant's separation from employer #1, he had restored his driver's license. The company policy for employer #1 prohibits employment within a three (3) year period of the employee's license being suspended.

The claimant worked for employer #2, as a delivery driver. The claimant was paid completely on tips and delivery fees. The claimant estimated his earnings to be an average of \$6 per hour. The claimant worked for employer #2 from 12/2017 through 12/06/2018, at which time the claimant was in a car accident. The claimant's car was inoperable and as a result he had no transportation to perform his job duties with employer #2. The claimant was aware upon hire that he needed his own personal transportation in order to accept the employment.

The Division record reflects the claimant was held disqualified due to his separation from employer #2 due to voluntarily leaving. In addition, the Division records reflect on 02/20/2019, employer #2 was deemed not covered employment because it was determined there was no

employer/employee relationship. Employer #2 was placed on hold, and the wages were not used to establish this claim under review.

A claim for benefits was filed 01/13/2019, with a weekly benefit rate of \$192 and a maximum benefit amount of \$4,992. No benefits were paid thereon.

The Deputy mailed the determination to the claimant's address of record on 02/21/2019. The claimant did not receive the determination. On or about 03/01/2019, the claimant went to the local office and he was informed by a Division representative that his benefits were denied and to file an appeal. The claimant was not provided any other information by the Division representative. The claimant searched the Internet on how to file an appeal. Later, he contacted the Division for pertinent information that he needed to file his appeal. On 03/12/2019, the claimant first filed his appeal.

OPINION:

N.J.S.A. 43:21-6(b)(1) provides that an appeal must be filed within ten (10) days of the mailing of the determination, or within seven (7) days of the receipt of the determination.

N.J.A.C. 12:20-3.1 Presentation of appealed claims:

(h) An appeal shall be considered on its merits if it is filed within seven calendar days after delivery of the initial determination or within 10 calendar days after such notification was mailed to the appellant's last known address, with the exception of an appeal filed pursuant to *N.J.S.A. 43:21-55.1*, which shall be considered on its merits if it is filed within 20 calendar days after delivery of the initial determination or within 24 calendar days after such notification was mailed to the appellant's last known address. Delivery of notification of an initial determination means actual receipt of the determination by the claimant or any interested party to the appeal.

(i) A late appeal shall be considered on its merits if it is determined that the appeal was delayed for good cause. Good cause exists in circumstances where it is shown that:

1. The delay in filing the appeal was due to circumstances beyond the control of the appellant; or
2. The appellant delayed filing the appeal for circumstances which could not have been reasonably foreseen or prevented.

In this case, the claimant did not receive the determination. The claimant was informed by a Division representative to file an appeal on or about 03/01/2019. On 03/12/2019, the claimant first filed his appeal. The claimant's appeal was filed late with good cause in accordance with N.J.S.A. 43:21-6(b)(1) and N.J.A.C. 12:20-3.1.

N.J.S.A. 43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight weeks in employment, which may include employment for the federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural

crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract.

The claimant cannot be held disqualified in connection with his separation from employer #2 as the Division determined that no employer/employee relationship existed and those wages were not used to establish the claimant's monetary entitlement.

Accordingly, no disqualification for benefits is imposed as of 12/09/2018, under N.J.S.A 43:21-5(a).

DECISION:

The claimant's appeal was filed late with good cause in accordance with N.J.S.A. 43:21-6(b)(1) and N.J.A.C. 12:20-3.1.

No disqualification for benefits is imposed as of 12/09/2018, under N.J.S.A 43:21-5(a), as the Division held the no employer/employee relationship existed and wages from employer #2 were not used to establish the monetary entitlement.

The determination of the Deputy is reversed.

/s/ Gwendolyn AT Washington
APPEALS EXAMINER

UA



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00175419
Date of Claim: 02/03/2019
Date of Appeal: 03/04/2019
PC : 10
Appellant: Claimant
Mailing Date: 03/20/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

EMPLOYER: UBER TECHNOLOGIES

The claimant appealed on 03/04/19, from a determination of the Deputy, mailed on 02/27/19, imposing a disqualification for benefits from 02/10/19 on the ground that the claimant left the above-named employer voluntarily without good cause attributable to such work.

The claimant participated in a duly scheduled telephone hearing, on 03/20/19.

FINDINGS OF FACT:

This matter was heard in conjunction with Docket # 175416.

The claimant worked for the above-named employer, as a part-time driver, from 04/12/18 through 02/09/19. He is still employed by the company.

OPINION:

N.J.S.A. 43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight weeks in employment, which may include employment for the federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case.

This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract.

This subsection shall not apply to an individual who voluntarily leaves work with one employer to accept from another employer employment which commences not more than seven days after the individual leaves employment with the first employer, if the employment with the second employer has weekly hours or pay not less than the hours or pay of the employment of the first employer, except that if the individual gives notice to the first employer that the individual will leave employment on a specified date and the first employer terminates the individual before that date, the seven-day period will commence from the specified date.

In this matter, the claimant has been employed for the company on a part-time basis. He is still employed. The evidence presented in this matter does not show that the claimant voluntarily left the job without good cause attributable to such work. Therefore, no disqualification applies under N.J.S.A. 43:21-5(a).

DECISION:

No disqualification applies under N.J.S.A. 43:21-5(a), as the claimant did not leave the job voluntarily without good cause attributable to such work.

The determination of the Deputy is reversed.

/s/ Vicki Caldwell
APPEALS EXAMINER

FA



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00174108
Date of Claim: 12/30/2018
Date of Appeal: 02/13/2019
PC : 10
Appellant: Claimant
Mailing Date: 03/28/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

EMPLOYER #1: Uber Technologies, Inc.
EMPLOYER #2: Lyft Inc.

The claimant appealed on 2/13/19 from a single determination of the Deputy, mailed on 2/8/19, imposing a disqualification for benefits from 1/13/19 on the ground that the claimant left work voluntarily without good cause attributable to the work with both Employer #1 and Employer #2.

The matter is decided on information in the Division's files.

FINDINGS OF FACT:

The Deputy issued a determination which held the claimant disqualified from the receipt of benefits as the result of a separation from both Employer #1 and Employer #2. For reasons unknown, the Deputy failed to issue a separate determination for each different employer. The Deputy instead combined Employer #1 and Employer #2 into a single, non-existent corporate entity: "Uber/Lyft."

OPINION:

In this case, as the Deputy issued a determination from which the Tribunal cannot process a singular appeal. Two determinations must exist, one for both Employer #1 and Employer #2. The matter is remanded to the Deputy in order that two separate determinations be entered, from which either the claimant may receive benefits or be held disqualified and receive new appeal rights.

DECISION:

The matter is remanded to the Deputy for two separate determinations to be entered and provided to the claimant.

The claimant's right to appeal any resultant determinations remains inviolate.

/s/ Ian Spurlock
APPEALS EXAMINER

UA



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00169651
Date of Claim: 11/18/2018
Date of Appeal: 12/14/2018
PC : 10
Appellant: Claimant
Mailing Date: 01/22/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

EMPLOYER: Uber Technologies, Inc.

The claimant appealed on 12/14/18 from a determination of the Deputy, mailed on 12/10/18, imposing an indefinite disqualification for benefits from 11/25/18, on the ground that the claimant voluntarily quit work without good cause attributable to such work.

The appellant failed to register for and participate in a duly scheduled telephone appeal hearing on 01/17/19.

FINDINGS OF FACT:

The appellant failed to participate in a telephone appeal hearing and pursue the appeal. No request for an adjournment was received by the Tribunal.

All interested parties to the appeal were sent a "Notice of Phone Hearing" in advance of the telephone hearing. The notice stated, in part, that:

Unlike the Unemployment fact-finding interview, the Office of Benefit Appeals WILL NOT INITIATE A CALL TO YOU UNLESS YOU HAVE REGISTERED FOR THE HEARING AS INSTRUCTED ABOVE. So, please remember to REGISTER NO LATER THAN 3:00 P.M., EST, ON THE BUSINESS DAY PRIOR TO YOUR SCHEDULED HEARING BEFORE THE APPEAL TRIBUNAL. Your appeal may be dismissed or you may be denied participation in the hearing if you fail, without good cause, to follow the instructions contained in this notice.

In this case, the hearing notice was mailed to the appellant on 01/03/19. The appellant failed to register for the scheduled 01/17/19 hearing and did not request an adjournment. As a result of appellant's failure to register for the hearing or to request an adjournment, no hearing was conducted.

OPINION:

N.J.A.C. 1:12-14.4 Failure to appear

(a) If the appellant fails to appear for a hearing before an appeal tribunal, the appeal tribunal may proceed to make its decision on the record or may dismiss the appeal on the ground of nonappearance unless it appears that there is good cause for adjournment.

As there was no evidence presented to upset the findings of the Deputy, that determination will not be disturbed, and the appeal is dismissed, in accordance with N.J.A.C. 1:12-14.4.

DECISION:

The appeal is dismissed, in accordance with N.J.A.C. 1:12-14.4.

/s/ Amit Mamroud
APPEALS EXAMINER

UA



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00169391
Date of Claim: 10/14/2018
Date of Appeal: 12/11/2018
PC : 10
Appellant: Claimant
Mailing Date: 01/15/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

EMPLOYER: UBER TECHNOLOGIES, INC

The claimant appealed on 12/11/18 from a determination of the Deputy, mailed on 11/29/18, imposing a disqualification for benefits from 11/04/18 on the ground that the claimant left work voluntarily without good cause attributable to the work.

The appellant failed to register for a duly scheduled telephone hearing before the Appeal Tribunal on 01/15/19.

FINDINGS OF FACT:

All interested parties to the appeal are sent a "Notice of Phone Hearing" in advance of the telephone hearing. The notice states, in part, that:

Unlike the Unemployment fact-finding interview, the Office of Benefit Appeals WILL NOT INITIATE A CALL TO YOU UNLESS YOU HAVE REGISTERED FOR THE HEARING AS INSTRUCTED ABOVE. So, please remember to REGISTER NO LATER THAN 3:00 P.M., EST, ON THE BUSINESS DAY PRIOR TO YOUR SCHEDULED HEARING BEFORE THE APPEAL TRIBUNAL.

Your appeal may be dismissed or you may be denied participation in the hearing if you fail, without good cause, to follow the instructions contained in this notice.

In this case, the hearing notice was mailed to the appellant on 12/27/18. The appellant failed to register for the hearing scheduled for 01/15/19 and did not request an adjournment.

As a result of appellant's failure to register for the hearing or to request an adjournment, no hearing was conducted.

OPINION:

N.J.A.C. 1:12-14.4 Failure to appear

(a) If the appellant fails to appear for a hearing before an appeal tribunal, the appeal tribunal may proceed to make its decision on the record or may dismiss the appeal on the ground of nonappearance unless it appears that there is good cause for adjournment. The appeal is dismissed in accordance with N.J.A.C. 1:12-14.4(a), as the appellant failed to register for the telephone hearing nor request an adjournment.

DECISION:

The appeal is dismissed in accordance with N.J.A.C. 1:12-14.4(a).

NOTE: TO REQUEST ANOTHER HEARING, WRITE TO:

APPEAL TRIBUNAL
NEW JERSEY DEPARTMENT OF LABOR
PO BOX 936
TRENTON, NJ 08625-0936

You must include your name, claimant's Social Security number and/or docket number, and the reason why you failed to register for the telephone hearing.

/s/ Terrence Moran
APPEALS EXAMINER

UA



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00168560
Date of Claim: 03/18/2018
Date of Appeal: 01/15/2019
PC : 10
Appellant: Claimant
Mailing Date: 02/01/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

EMPLOYER: UBER TECHNOLOGIES INC

For good cause shown, this matter is reopened as of 01/15/19.

The claimant and the employer participated in a duly scheduled hearing on 02/01/19.

FINDINGS OF FACT:

The claimant appealed on 12/03/18 from a determination of the Deputy, mailed 11/15/18, imposing a disqualification for benefits as of 03/11/18, on the ground that the claimant left voluntarily without good cause attributable to the work.

The claimant was last employed by the above-named employer as a driver from 08/2017 through 03/17/18, at which time the claimant, had a motor vehicle accident, while performing his duties for the above named employer. The claimant has not returned to work, as he still does not have a vehicle he could use.

Work had still been available to him, and he was not under threat of discharge at the time, he was unable to accept work, due to the loss of his vehicle.

He was unable to repair his means of transportation. The claimant was unable to rent, lease or purchase another vehicle, due to financial constraints.

The claimant has not worked at any other position, since he lost his vehicle, which was necessary to perform his position, as a driver.

An initial claim for benefits was filed as of 03/18/18, establishing a weekly benefit rate of \$252.00.

The Deputy mailed a determination on 11/15/18. The claimant received the denial letter along with his appeal rights, on 12/01/18. He filed his appeal on 12/03/18.

OPINION:

N.J.S.A. 43:21-6(b) (1) provides that an appeal must be filed within ten (10) days of mailing of the determination, or within seven (7) days of the receipt of the determination

The claimant filed a timely appeal, as the appeal was filed within seven days of receipt of the denial letter. Therefore, the Appeal Tribunal has jurisdiction.

N.J.S.A. 43:21-5. (a) An individual shall be disqualified for benefits:

For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight weeks in employment, which may include employment for the federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract. This subsection shall not apply to an individual who voluntarily leaves work with one employer to accept from another employer employment which commences not more than seven days after the individual leaves employment with the first employer, if the employment with the second employer has weekly hours or pay not less than the hours or pay of the employment of the first employer, except that if the individual gives notice to the first employer that the individual will leave employment on a specified date and the first employer terminates the individual before that date, the seven-day period will commence from the specified date.

N.J.A.C. 12:17-9.1 Disqualification for voluntarily leaving-general principles

(a) An individual shall be disqualified for benefits for the week in which he or she has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight weeks in employment, which may include employment for the Federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case. See N.J.S.A. 43:21-5(a).

(b) For the purpose of this subchapter, "good cause attributable to such work" means a reason related directly to the individual's employment, which was so compelling as to give the individual no choice but to leave the employment.

(c) The burden of proof is on the claimant to establish good cause attributable to such work for leaving.

(d) An individual who leaves work for several reasons, one of which constitutes good

cause attributable to such work, shall not be disqualified for benefits.

(e) An individual's separation from employment shall be reviewed as a voluntarily leaving work issue where the separation was for the following reasons including, but not limited to:

1. Lack of transportation;

In this matter, the claimant's sole reason for leaving was the loss of his vehicle which he used to perform the essential duties of his position as a driver. He had not been under threat of discharge. Work was still available to him, if he had not lost his vehicle.

Therefore, it is considered that the claimant left work voluntarily, without good cause attributable to such work and is, consequently disqualified for benefits under N.J.S.A. 43:21-5(a) as of 03/11/18.

DECISION:

The appeal is timely in accordance with N.J.S.A. 43:21-6(b) (1).

The claimant is disqualified for benefits as of 03/11/18, under N.J.S.A. 43:21-5(a) as the claimant left work voluntarily without good cause attributable to the work.

The determination of the Deputy is affirmed.

/s/ Maryann Moran-Smyth
APPEALS EXAMINER

UA



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00168560
Date of Claim: 03/18/2018
Date of Appeal: 12/03/2018
PC : 10
Appellant: Claimant
Mailing Date: 01/03/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

POSTPONEMENT DECISION

EMPLOYER: UBER TECHNOLOGIES INC

The claimant appealed on 12/03/18 from a determination of the Deputy, mailed 11/15/18, imposing a disqualification for benefits as of 03/11/18, on the ground that the claimant left voluntarily without good cause attributable to the work.

The claimant participated in a duly scheduled hearing on 01/03/19.

FINDINGS OF FACT:

The appeal is hereby postponed, without prejudice for the reason noted below:

The issue of Refusal of Suitable Work, must be added to the docket, as the claimant appears to have worked for only a brief period of time, with the above named employer. Prior to moving forward with this appeal, the claimant wished to receive the issue, in writing.

OPINION:

The claimant did not wish to move forward, with the hearing , prior to receiving the new issue of Refusal of Suitable Work, in writing.

Therefore, the appeal is postponed without prejudice. The case will be rescheduled for the next available hearing date.

DECISION:

The appeal is postponed without prejudice.

Important: All parties must register for the next and any other duly scheduled subsequent hearings as instructed on the Notice of Phone Hearing.

UA

/s/ Maryann Moran-Smyth
APPEALS EXAMINER



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00168271
Date of Claim: 10/14/2018
Date of Appeal: 11/29/2018
PC : 10
Appellant: Claimant
Mailing Date: 01/02/2019

Decision of the Appeal Tribunal

IN THE MATTER OF:

EMPLOYER: Uber Technologies, Inc.

The claimant appealed on 11/29/18 from a determination of the Deputy, mailed on 11/27/18, imposing a period of ineligibility for benefits from 09/02/18 through 10/13/18, on the ground that the claimant did not report in accordance with the regulations of the Division.

The claimant appealed on 11/29/18 from a determination of the Deputy, mailed on 11/27/18, imposing a period of disqualification for benefits from 11/04/18 through 12/01/18 on the ground that the claimant failed, without good cause, to accept or apply for suitable work.

This matter is decided from information contained in the Division's files.

FINDINGS OF FACT:

The appellant, by statement, requested that the appeal be withdrawn.

OPINION:

After review of the matter, the Appeal Tribunal approves the appellant's request for withdrawal of the appeal.

DECISION:

The appeal is withdrawn.

UA

/s/ Tiffany Esposito
APPEALS EXAMINER



Board of Review
PO Box 937
Trenton, NJ 08625-0937

SS #:
Docket #: DKT00167360
Date of Claim: 09/16/2018
Date of Appeal: 01/07/2019
Mailing Date: 02/06/2019

Decision of the Board of Review

IN THE MATTER OF:

ORDER AFFIRMING DECISION OF DISMISSAL

The claimant having filed a timely appeal from a Decision of the Appeal Tribunal, mailed December 21, 2018, dismissing the appeal taken to it from the Deputy's determination on the ground that the claimant failed to register and participate at the scheduled hearing and pursue the appeal; and

Good cause not having been shown for the claimant's failure to register and participate in such hearing; and

It appearing the appeal was properly dismissed in accordance with N.J.A.C. 1:12-14.4(a);

It IS ORDERED that the Appeal Tribunal Decision of Dismissal be affirmed. The claimant may wish to contact the Deputy if the circumstances regarding his availability for work has changed.

BY DIRECTION OF THE BOARD OF REVIEW

BOARD OF REVIEW
William Scaglione



Appeal Tribunal
PO Box 936
Trenton, NJ 08625-0936

SS #:
Docket #: DKT00167360
Date of Claim: 09/16/2018
Date of Appeal: 11/20/2018
PC : 10
Appellant: Claimant
Mailing Date: 12/21/2018

Decision of the Appeal Tribunal

IN THE MATTER OF:

EMPLOYER: Uber Technologies, Inc.

The claimant appealed on 11/20/18 from a Determination of the Deputy, mailed on 11/15/18, holding the claimant ineligible for benefits from 10/14/18 on the ground that the claimant was not available for work.

The appellant failed to register to participate, as instructed, for a duly scheduled telephone hearing on 12/21/18.

FINDINGS OF FACT:

All interested parties to the appeal were sent a "Notice of Phone Hearing" in advance of the telephone hearing. The notice provides in part:

"Unlike the Unemployment fact-finding interview, the Office of Benefit Appeals WILL NOT INITIATE A CALL TO YOU UNLESS YOU HAVE REGISTERED FOR THE HEARING AS INSTRUCTED ABOVE. So, please remember to REGISTER NO LATER THAN 3:00 P.M., EST, ON THE BUSINESS DAY PRIOR TO YOUR SCHEDULED HEARING BEFORE THE APPEAL TRIBUNAL." And, "Your appeal may be dismissed or you may be denied participation in the hearing if you fail, without good cause, to follow the instructions contained in this notice."

In this case, the hearing notice was mailed to the appellant on 12/05/18. The appellant failed to register for the hearing scheduled for 12:30PM on 12/21/18 and did not request an adjournment. As a result of appellant's failure to register for the hearing or to request an adjournment, no hearing was conducted.

OPINION:

N. J. A. C. 1:12-14.4 Failure to appear