

**ALASKA DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT
OFFICE OF THE COMMISSIONER
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JUNEAU, ALASKA 99811-1149**

**DECISION OF THE COMMISSIONER OF LABOR
Docket No. 21 0539**

IN THE MATTER OF:

CLAIMANT:

LOUIS PIERRE

EMPLOYER:

BPC UNIT

The claimant filed an appeal to the Department from a Tribunal decision that was issued November 29, 2021, that affirmed a determination denying unemployment benefits beginning in October of 2020 through January 23, 2021 under AS 23.20.375 and 8 AAC 85.110. The determination also denied benefits under AS 23.20.387 and held the claimant liable to repay benefits under AS 23.20.390.

At issue was whether the claimant failed to register for work in the area he was residing and whether he knowingly made false statements or misrepresented material facts with the intent to obtain benefits. The Tribunal concluded that the claimant knowingly made false statements by failing to provide his accurate physical address while filing for unemployment insurance benefits.

We have reviewed the entire record of this case, including the audio recording of the hearing. Briefly, the claimant filed a new claim application on October 29, 2020. At that time, he provided a mailing and physical address in Kotzebue, Alaska. The question regarding the claimant's physical location arose when his mail was returned to the unemployment office indicating a forwarding address in Minnesota.

On January 26, 2021, an unemployment representative contacted the claimant to ask about his returned mail. In that conversation, the claimant stated he has been in Bethel, but was getting ready to move to Kotzebue. The next day, an investigator from the Benefit Payment Control office contacted the claimant to inquire further on the claimant's physical location. The claimant told the investigator that he left the Kotzebue address on file because it was pre-filled on the form, and that he did not know why he did not update his address.

Later, the claimant changed his statement and indicated he had actually been living in Kotzebue the entire time. He stated that he was distressed from a recent death in the family and that he misspoke in his prior conversations with the Division representatives. The claimant offered some documentary evidence to show he was paying rent for a residence in Kotzebue. However, the provided receipts contained misspelled words, and the Tribunal found them less than convincing.

The record was left open to allow the claimant time to provide airline documents that showed his travel dates from Bethel to Kotzebue. The claimant provided documents showing he traveled from Bethel to Anchorage on October 30, 2020. There was nothing to show he continued to Kotzebue. The Tribunal found the claimant's provided testimony and evidence questionable. We also add, that even if the authenticity of the rent receipts were not in question, evidence of paying rent is not, in and of itself, proof of where an individual is physically located.

The standard of review by which the Department reviews a Tribunal's findings has been established in many previous decisions, In re Douglas, Comm'r Rev. 85H-UI-069, April 26, 1985, and in re Thetford, Comm'r Rev. 86H-UI-048, April 10, 1986. Any question of credibility or conflict in the evidence is to be resolved by the hearing officer, and the findings are conclusive unless unsupported by substantial evidence.

The Department agrees with the Tribunal's conclusion that the claimant's testimony was not fully credible, and the provided documentary evidence is insufficient to establish the claimant was physically located in Kotzebue during the period in question.

The Division Appeal Tribunal decision issued on November 29, 2021, is **AFFIRMED**.

FURTHER APPEAL may be had from this decision by filing a Notice of Appeal in Superior Court for the State of Alaska within 30 days from the date of mailing of this decision as provided in AS 23.20.445, AS 44.62.560-570 and the Rules of Appellate Procedure of the State of Alaska. Unless an appeal is filed within the said 30-day period, this decision is final.

Dated and Mailed on March 18, 2022.



**DR. TAMIKA L. LEDBETTER
COMMISSIONER**