

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

In the Matter of)	
)	
ROY JAMES TIKKA)	OAH No. 22-0119-CAP
_____)	Agency No. P21 1028

DECISION OF THE COMMISSIONER

After the Division of Employment and Training Services denied Roy James Tikka's application for Pandemic Unemployment Assistance (PUA) benefits April 5, 2021, Mr. Tikka filed an appeal October 28, 2021. A hearing was scheduled for December 15, 2021, but was rescheduled by agreement to December 17, 2021, to allow Mr. Tikka to receive by email a copy of the agency's exhibits. However, he did not appear for his December 17, 2021, hearing although the Administrative Law Judge made two phone calls and left two voice messages to the same phone number. The Appeals Tribunal¹ issued a Notice providing Mr. Tikka an opportunity to provide a written statement of good cause for failure to participate, to avoid dismissal of his appeal. Mr. Tikka responded by email message on December 20, 2021, stating, "I received the call and it was cut off and I tried to call back and could not get through." His account differed from what occurred December 17, 2021. Finding Mr. Tikka failed to establish good cause for his failure to appear by telephone, the Administrative Law Judge dismissed his appeal pursuant to 8 AAC 85.154(b).

Mr. Tikka now appeals asserting that "I was in an area that had bad cellphone coverage or maybe even the local cellular network was having technical issues and could not receive the call for my hearing." Under AS 23.20.435, an appeal to the Department by a party is a matter of right only if the decision of the Tribunal reverses or modifies the Division's initial determination, or if a question arising under AS 23.20.383 is presented. Here, because the Tribunal decision effectively upheld the Division's determination, further appeal to the Department is permitted only at the discretion of the Department.

In exercising such discretion, the Department will accept an appeal only if the Tribunal decision is clearly erroneous or the appeal presents a policy question requiring the Department's

¹ The Department of Labor and Workforce Development referred the appeal to the Office of Administrative Hearings on November 15, 2021. Administrative Law Judge Christopher Kennedy was assigned to conduct the hearing as the Appeal Tribunal.


opinion. The appeal presents no policy question requiring the Department's oversight, and the underlying decision is not clearly erroneous. The appeal is therefore DENIED.

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 30-day period, this decision is final.


Recommended 9 Feb., 2022:


Kris Knudsen
Administrative Law Judge

Adopted 2/15, 2022:


Dr. Tamika L. Ledbetter
Commissioner

CERTIFICATE OF SERVICE. I certify that on 2/15, 2022 the foregoing decision was served by mail / email on Roy James Tikka. A courtesy copy has been emailed to UI Technical Team; UI Support Team, and appeals@alaska.gov.


Office of Administrative Hearings