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**APPEAL TRIBUNAL DECISION**

**Docket Number:** 18 0050 **Hearing Date:** February 7, 2018

**CLAIMANT: DETS:**

CHARLOTTE CHRISTIE BENEFIT PAYMENT CONTROL

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Charlotte Christie None

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#### CASE HISTORY AND FINDINGS OF FACT

The claimant filed an appeal against an August 17, 2017 determination that reduced unemployment benefits under AS 23.20.360, denied benefits under AS 23.20.387, and required repayment of benefits received plus the payment of a penalty under AS 23.20.390 on the ground that the claimant had misrepresented her eligibility. The Division mailed the determination to the claimant’s address of record on

August 18, 2017. The claimant filed her appeal on January 8, 2018, bringing forth

the issue of timeliness of the appeal.

The claimant has a paper phobia. She will often get her mail and place it in a box without opening the mail. On some occasions she overcomes the phobia and will open the most recent mail. She rarely gets very far in the past with the mail. The claimant believed that she placed the notice in a box and never got back to that letter. She does not have anyone help her with her mail. She sometimes gets in financial trouble due to her paper phobia.

The claimant noted that she was receiving some mail that was obviously a bill of some sort. She contacted the Division in November 2017 to ask about the bills she was receiving. The Division’s representative told her that she owed some money back to the Division due to an overpayment. The representative told the claimant that the 30 days in which she could have appealed the determination had passed. The claimant was given information about repaying the overpayment.

The claimant contacted the Division again on January 8, 2018 about the overpayment. The representative told her that she could appeal the overpayment even though the 30 days had past, but she would be appealing the timeliness of her appeal first. She appealed the determination at that time.

#### PROVISIONS OF LAW

**AS 23.20.340. Determination of claims.**

(e) The claimant may file an appeal from an initial determination or a redetermination under (b) of this section not later than 30 days after the claimant is notified in person of the determination or redetermination or not later than 30 days after the date the determination or redetermination is mailed to the claimant’s last address of record. The period for filing an appeal may be extended for a reasonable period if the claimant shows that the application was delayed as a result of circumstances beyond the claimant’s control.

(f) If a determination of disqualification under AS 23.20.360, 23.20.362, 23.20.375, 23.20.378 ‑ 23.20.387, or 23.20.505 is made, the claimant shall be promptly notified of the determination and the reasons for it. The claimant and other interested parties as defined by regulations of the department may appeal the determination in the same manner prescribed in this chapter for appeals of initial determinations and redeterminations. Benefits may not be paid while a determination is being appealed for any week for which the determination of disqualification was made. However, if a decision on the appeal allows benefits to the claimant, those benefits must be paid promptly.

**8 AAC 85.151 provides in part;**

1. An appeal may be filed with a referee, at any employment center, or at the central office of the division and, if filed in person, must be made on forms provided by the division. An appeal must be filed within 30 days after the determination or redetermination is personally delivered to the claimant or not later than 30 days after the date the determination or redetermination is mailed to the claimant’s last address of record. The 30-day time period will be computed under Rule 6 of the Rules of Civil Procedure. However, the 30-day period may be extended for a reasonable time if the claimant shows that the failure to file within this period was the result of circumstances beyond his or her control.

#### CONCLUSION

An appellant has the burden to establish some circumstance beyond the appellant’s control prevented the timely filing of the appeal.

It is clear from Estes v. Department of Labor, 625 P.2d 293 (Alaska 1981) that a late claimant must show some quantum of cause; implicit is the requirement that the claimant's delay be caused by some incapacity, be it youth, illness, limited education, delay by the post office, or excusable misunderstanding, at the very least, and that the state suffer no prejudice. If the delay is short, the claimant need show only some cause; for longer delays, more cause must be shown. Borton v. Emp. Sec. Div., Super. Ct., 1KE-84-620 CI, (Alaska, October 10, 1985).

*It is the claimant's responsibility to thoroughly read all information provided to him by the division so that he will have the necessary knowledge needed to properly handle his claim.* Demit, Comm. Dec. 87H-EB-099, May 1, 1987.

It is unfortunate that the claimant has a phobia about paper, but that does not relieve her of the responsibility to thoroughly read all the information provided to her by the Division, so that she may properly handle her claim. At the least, she could get a neighbor, coworker, or friend to help in opening and reviewing her mail. Thus, she has not shown a circumstance beyond her control prevented her from filing an appeal within the time limits prescribed by law.

#### DECISION

The claimant’s appeal from the notice of determination issued on August 17, 2017 is **DISMISSED**.

#### APPEAL RIGHTS

This decision is final unless an appeal is filed to the Commissioner of Labor and Workforce Development within **30 days** after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party's control. A statement of appeal rights and procedures is enclosed.

Dated and mailed on February 8, 2018.

Tom Mize

Appeals Officer