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**APPEAL TRIBUNAL DECISION**

**Docket Number:** 19 0205 **Hearing Date:** March 18, 2019

**CLAIMANT: EMPLOYER:**

DONALD RITCHIE PARAGON DISTRIBUTION LLC

**CLAIMANT APPEARANCES: EMPLOYER APPEARANCES:**

Donald Ritchie None

#### CASE HISTORY AND FINDINGS OF FACT

The claimant filed an appeal against a January 14, 2019 determination that denied unemployment benefits under AS 23.20.379 on the ground that the claimant was discharged for misconduct. The Division mailed the determination to the claimant’s address of record on January 15, 2019. The claimant filed an appeal on Thursday, February 28, 2019, bringing forth the issue of timeliness of the appeal.

The claimant received the determination on or about February 17, 2019. He contacted his parole officer to get a letter verifying that he did have drug screening performed on the date provided by his employer. The parole officer came to the claimant’s residence on or about February 19, 2019 but forgot to bring the letter.

The claimant had an appointment with the parole officer set for February 28, 2019. He waited until he met again with the parole officer for retrieve the letter. He filed his appeal on February 28, 2019 after he got the letter from his parole officer.

#### 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.

*The desire to first assemble proof in support of contentions on appeal does not constitute a reason beyond the appellant's control for so long a delay.* Rosenberger, Comm. Dec. No. 9322918, July 26, 1993. Smith, Comm. Dec. No. 9428097, August 23, 1994. *The Department has long held that waiting for supporting documents is not good cause for delaying the filing of an appeal.* Hail, Comm. Dec. No. 8924805, November 16, 1989. Dingler, Comm. Dec. No. 9428375, October 5, 1994.

The claimant waited to file his appeal until he received documents that would support his appeal before he contacted the Division to file his appeal. As in Rosenberger and Hail, a circumstance beyond the claimant’s control has not been shown.

#### DECISION

The claimant’s appeal from the notice of determination issued on January 14, 2019 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 March 19, 2019.

Tom Mize

Appeals Officer