



APPEAL TRIBUNAL DECISION

Docket number: 23 0722

CLAIMANT:

RAQUEL CORPUZ



REOPENING ORDER

On October 6, 2023, the claimant filed an appeal of a Division determination that denied benefits for the weeks ending September 23, 2023, and September 30, 2023, on the grounds the claimant did not participate in a reemployment service program.

On October 12, 2023, a hearing notice was mailed to the claimant's address of record. The notice provided the date and time scheduled for the hearing. On October 24, 2023, at the scheduled time of the hearing, the appeals officer called the claimant, and the call went to voicemail. The appeals officer left a message giving the claimant 15 minutes to call the appeal's office before her hearing was dismissed. The claimant did not respond within the required time, and the hearing was dismissed.

The next day, the claimant sent a request to reopen her hearing stating she never received the hearing notice. A request for additional information was sent to the claimant on November 8, 2023. The claimant responded to the email that same day, stating she found the hearing notice, and that her daughters did not tell her she had received any mail.

PROVISIONS OF LAW

AS 23.20.420. HEARING PROCEDURE AND RECORD.

Each party shall be promptly given a reasonable opportunity for fair hearing. An appeal tribunal shall inquire into and develop all facts bearing on the issues and shall receive and consider evidence without regard to statutory and common law rules. The appeal tribunal shall include in the record and consider as evidence all records of the department that are material to the issues.

8 AAC 85.153. HEARING PROCEDURES.

- (f) A hearing may be postponed, continued, or reopened on the appeal referee's own motion or at the request of an interested party. All requests must explain in detail the reasons for the request. If a party fails to appear in person or by authorized agent at a hearing, the appeal referee may reopen the hearing only if the party failed to appear because of circumstances beyond the party's control. All other requests may be granted only if there is good cause. The following rules apply to requests:
2. A request for reopening must be made in writing to the appeal referee and must be delivered or mailed within 10 days after the scheduled date of the hearing. The 10-day period may be extended for a reasonable period on a showing that the request was delayed as a result of circumstances beyond the party's control.
 3. If a request for reopening is not allowed, the appeal referee will mail a written ruling and a statement of the right of appeal from that ruling to each party.

CONCLUSION

Under 8 AAC 85.153(f), a hearing may be reopened at a party's request only if the party failed to appear because of circumstances beyond the parties' control.

In her appeal to the Department, the claimant alleges she never received the written decision by the Appeal Tribunal mailed to her on July 18, 2012. We note that the decision was mailed to her correct address of record. . . . When a decision has been sent to the claimant's address of record, the Tribunal has completed its notice obligation and it is incumbent on the appellant to demonstrate some reason why the mail might not have been timely delivered. Pearson, Comm'r Dec. 12 1377, July 24, 2013.

We have previously held that "The failure of a party's agent or employee to act is not such a circumstance [to grant reopening]." In re Anderson, Comm'r Dec. 84H-UI-186, IC Unemp. Ins. Rptr. (CCH), AK 8101.08, 7/20/84. As the claimant in this case apparently did not get his mail for such a reason, we conclude his failure to appear at the hearing scheduled was not due to circumstances beyond his control. Gunia, Com. Decision No. 9322653, July 16, 1993

The notice of telephonic hearing was mailed to the address provided by the claimant. The failure of the claimant's daughters to properly handle her mail was unfortunate. However, it was within the claimant's control to check the mail herself or find a more reliable agent. The failure of the claimant's daughters to properly handle the mail was not a circumstance outside the claimant's control or that would allow reopening of the hearing.

DECISION

The claimant's request to reopen the hearing is **DENIED**.

APPEAL RIGHTS

This decision is final unless an appeal is filed in writing 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 rights and procedures is enclosed.

Dated and mailed January 19, 2024.


Kimberly Jackson-Matta, Appeals Officer