

IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

HERBERT GRAVES, JR.,	)	
	)	
Defendant Below/	)	
Appellant,	)	
	)	
v.	)	C.A. No. 2003-07-662
	)	
STATE OF DELAWARE,	)	
DEPARTMENT OF LABOR,	)	
DIVISION OF UNEMPLOYMENT	)	
INSURANCE,	)	
	)	
Plaintiff Below/	)	
Appellee.	)	

Submitted: December 17, 2004  
Decided: January 20, 2005

**LETTER OPINION**

COMES NOW the Court finds as follows:

1. Appellant Herbert Graves filed an appeal in the Court of Common Pleas of a Justice of the Peace Court decision decided on July 11, 2003. The judgment was entered in favor of the Division of Unemployment Insurance for \$6,100.00 plus court costs, pre-judgment interest at \$212.58, and post-judgment interest at 18%.
2. Appellee filed a motion for summary judgment in this Court that this debt action was a statutory right to recoup the overpayment of unemployment benefits made to Appellant under 19 *Del. C.* § 3325.

3. Appellant admitted on November 15, 2001 to the Division of Quality Control Auditor that he had been earning wages as a newspaper carrier while he was collecting unemployment insurance benefits. Upon this, the Division of Unemployment Insurance (hereinafter the “Division”) commenced procedures to disqualify Appellant from receiving additional benefits, and took action to begin collecting the funds that were wrongfully disbursed. The Division handed down four decisions, all of which were not appealed by the Appellant within the time allowed by statute. See 19 *Del. C.* § 3325 and 19 *Del. C.* § 2350.

4. In an attempt to collect this debt, the Division filed a debt action in the Justice of the Peace Court. The Appellant now appeals the Justice of the Peace Court decision in the Court of Common Pleas. Appellant asserts in the Complaint lack of service to invoke the ten-day statutory requirement for an appeal of the Division’s decision, incorrect interest charges, and unavailability of title 19 during the proceedings to himself or the Justice of the Peace Court.

5. Decisions of the Division are subject to appeal pursuant to 19 *Del. C.* § 3325 within ten days of the decision. Superior Court of the State of Delaware has jurisdiction to hear and determine all appeals taken pursuant to Title 19 of the Delaware Code. *Del. C.* § 2350. Appellant had the right to appeal the administrative decision of the Division according to Title 19.

6. The Division then filed a debt action in the Justice of the Peace Court to recoup funds paid to the Appellant, and a judgment was entered in the Court below in favor of the Division. A party against whom a judgment is given by a Justice of the Peace may appeal to the Court of Common Pleas if the judgment is given without a

referee trial, and the amount exceeds \$5.00. 10 *Del. C.* § 9570. The Court should not deny any defendant in an action before a Justice of the Peace the right of appeal unless it is clear under the law that the defendant is not entitled to an appeal. *Burke v. Silcox* 22 Del. 102, 64 A.73 (1906).

7. The Appellant's Complaint filed in this Court raises issues other than those addressed in the administrative proceedings. Appellant's judgment exceeds \$5.00 and a referee trial is not a part of this matter. Therefore, under court rules and judicial procedure, the claim brought in the Justice of the Peace Court by the Division where a judgment was entered against the Appellant, is appealable pursuant to the rules under 10 *Del. C.* § 9570 Right to Appeal.

For the above stated reasons, the Appellant may appeal the decision below, and the Motion for Summary Judgment is Denied.

SO ORDERED this 20<sup>th</sup> day of January 2005

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Alex J. Smalls  
Chief Judge