

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

AIDAN JACKSON, :
 :
 Appellant, :
 :
 v. : C.A. No. 01A-11-11-SCD
 :
 MURPHY MARINE SERVICES, INC. :
 and UNEMPLOYMENT INSURANCE :
 APPEAL BOARD, :
 :
 Appellees. :

Submitted: February 4, 2002
Decided: April 24, 2002

ORDER

On this 24th day of April 2002, upon consideration of appellees' motion to dismiss for lack of jurisdiction, it appears that:

(1) On October 16, 2001, appellant filed an appeal from the decision of the Appeals Referee to the Unemployment Insurance Appeal Board ("Board"). The Board scheduled a hearing for November 14, 2001. Appellant failed to appear and the Board dismissed his appeal.¹

(2) Appellant submitted a letter to the Board, dated November 14, 2001, but received subsequent to the dismissal of the case on the same day. The letter stated, "I am to be represented by my union officer who happened to be out of town on 11/14/01. Due to him having the paperwork for this case I misjudged the date of the case, and am requesting a

¹ Decision of the Appeal Board on Appeal From Decision of Joseph Julian, Jr., [sic] Appeal Docket No. 140414 (Decision Mailed November 21, 2001, Decision Final December 1, 2001). The transcript of the November 14, 2001 proceeding indicates that upon motion the appeal was dismissed because the employer appeared but the claimant did not. The subsequently issued "Decision of the Appeal Board from Decision of Joesph Julian, Jr." is mistitled but does properly name the claimant and employer in the body of the document. The decision properly reports: "As the claimant failed to appear to prosecute its appeal, the appeal is dismissed." The decision incorrectly states: "The

continuance.”² The Board construed appellant’s letter as a request for a rehearing and denied that request.³ The Board concluded that the appellant failed to demonstrate good cause for his failure to appear at the hearing.

(3) Appellant filed this *pro se* appeal. Appellant does not appeal the Board’s exercise of discretion in dismissing his petition or denying the request for a rehearing. Appellant’s notice lists a single ground for the appeal: “That craft interchange is not mandatory for employment.”⁴ Appellant states in his brief, responding to this motion:

In the Boards [sic] decision there are two issues . . . , the issue of the dismissal and the issue of the affirmation of the referees [sic] denial of benefits. **The issue of the affirmation of the referees [sic] decision is what is of most importance to the . . . [a]ppellant in this instance. It is that aspect of the Boards [sic] decision that we appeal to the Court to examine and overturn.**⁵

(4) Title 19, Section 3322(a) of the Delaware Code provides, “judicial review [of a board decision] . . . shall be permitted only after any party claiming to be aggrieved thereby has exhausted all administrative remedies as provided by this chapter.”⁶ The doctrine of exhaustion of administrative remedies requires that where a remedy before an administrative agency is provided, relief must be sought by exhausting that remedy before the Court will act.⁷

(5) This Court is without jurisdiction to address the merits of a case where a party has not exhausted the administrative remedies by failing to appear at a Board hearing.⁸

Accordingly, appellees’ motion to dismiss for lack of jurisdiction is GRANTED.

decision of the Referee, being supported by substantial evidence, is hereby affirmed and benefits are denied.” In fact, the Board never reached the merits of claimant’s case.

² Appellant’s Appendix.

³ Decision of the Appeal Board on Claimant’s Request for Rehearing, Appeal Docket No. 140414 (Decision Mailed December 12, 2001, Decision Final December 21, 2001).

⁴ Appellant’s Appendix.

⁵ Appellant’s Response at 4 (emphasis added).

⁶ *Del. Code Ann.* tit. 19, § 3322(a) (1995).

⁷ *Wilson v. Servalli Restaurant*, 1999 WL 1611271, at 2 (Del. Super. Ct. April 30, 1999). *See also Griffin v. Daimler Chrysler*, 2000 WL 33309877, at *1-*2 (Del. Super. Ct. Apr. 27, 2001).

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary

xc: Aidan Jackson, *Pro Se*
Stephani J. Ballard, Deputy Attorney General
Unemployment Insurance Appeal Board

⁸ *Id.*