

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

DEREK A. VANDERSTEUR,	:	
	:	
Appellant,	:	
	:	
v.	:	C.A. No. 03A-09-11 SCD
	:	
HOOVER UNIVERSAL	:	
(Johnson Controls, Inc.), and	:	
UNEMPLOYMENT INSURANCE	:	
APPEAL BOARD	:	
	:	
Appellees.	:	

Submitted: May 7, 2004
Decided: June 29, 2004

Upon Consideration of Appellee's Motion to Dismiss - GRANTED

O R D E R

This 29th day of June, upon consideration of the Appellee's motion to dismiss the appeal, it appears that:

1. On August 27, 2003, a hearing was held by the Unemployment Insurance Appeal Board (the "Board") to determine whether Derek A. Vandersteur ("Appellant") was entitled to receive unemployment benefits.
2. On August 29, 2003, the Board issued its decision denying Appellant's right to receive benefits, and mailed it to the Appellant. Enclosed with the decision was a notice of the right to appeal as well as the date on which the Board's decision became final. The Board's decision became final on September 8, 2003.

3. On October 2, 2003, Appellant filed a notice of appeal of the Board's decision with this Court. Subsequently, on May 7, 2004, the State of Delaware ("Appellee"), on behalf of the Board, filed this motion to dismiss for failure to file a timely appeal.

4. Pursuant to 19 *Del. C.* 3323(a), "[w]ithin 10 days after the decision of the Unemployment Insurance Appeal Board has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action in the Superior Court in the county in which the claimant resides" ¹ Thus, the Appellant had until September 22, 2003 to timely file his appeal with this Court. Appellant did not file his appeal until October 2, 2003. "The failure to file a timely appeal causes this Court to lose jurisdiction over the matter."²

5. Because this Court lacks the jurisdiction to hear the appeal, the Appellee's motion to dismiss is GRANTED.

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary
xc: Derek A. Vandersteur
Thomas H. Ellis, Esquire
Hoover Universal, Personnel Office
Unemployment Insurance Appeal Board

¹ DEL. CODE ANN. tit. 19, 3323(a) (2002).

² *Klossowski v. Letica Corp.*, Del. Super., C.A. No. 94-08-004, Graves, J. (Nov. 17, 1994).