

BOARD OF REVIEW
OKLAHOMA EMPLOYMENT SECURITY COMMISSION
P.O. BOX 53345
OKLAHOMA CITY, OK 73152

Docket No. 17-AT-10849-BR

In Re: Claim of:

CLAIMANT

APPELLANT

Date of Appeal to Board: **AUGUST 14, 2017**

OPINION

The BOARD OF REVIEW considered the findings and decision of the Appeal Tribunal Hearing Officer, reversing the Commission's determination by finding the claimant was discharged from his last employment but not for misconduct connected with the work and allowing benefits in accordance with Section 2-406, Title 40, Okla. Stat., as amended.

This matter is submitted on the recording of the hearing held before the Appeal Tribunal, the Appeal Tribunal decision, and the records in the offices of the Oklahoma Employment Security Commission, the Appeal Tribunal, and the Board of Review pertaining to this appeal.

The claimant injured his hand and was unable to work. The employer gave him Family and Medical Leave Act (FMLA) paperwork to be completed by his doctor. The claimant gave the paperwork to his doctor and paid for it to be completed. After some time had passed, the employer told the claimant that the FMLA paperwork had not been received. The claimant contacted his doctor's office and was told that the paperwork had been faxed to the employer, and was told it would be faxed again.

After more time went by, the employer informed the claimant that the FMLA paperwork still had not been received. He was told that if the paperwork was not received by June 7, he would be terminated. The claimant again contacted his doctor's office, and was told the paperwork had been sent for the third time. However, the employer never received the required documentation and subsequently discharged the claimant.

It was the claimant's responsibility to ensure that his employer received the FMLA paperwork. He did contact his doctor's office about it. However, after being told that his job was in jeopardy due to the employer having not received the paperwork, the claimant should have escalated his efforts to get the documentation into his employer's hands. For instance, the claimant could have gone to the doctor's office and picked up a copy of the papers so that he could have delivered it to the employer in person. He was given more than a month to get the required paperwork to his employer, but did nothing more than call the doctor's office. Since he did not provide the documentation necessary to excuse his absences, he was discharged due to unapproved or excessive absenteeism.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby REVERSED. The claimant is denied benefits effective week ending June 24, 2017, and indefinitely until he becomes re-employed and earns wages equal to or in excess of ten times his weekly benefit amount.