

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

Docket No. 15-AT-08545-BR

In Re: Claim of:

CLAIMANT

APPELLANT

SSA #

Date of Appeal to Board: JUNE 26, 2015

OPINION

The BOARD OF REVIEW considered the findings and decision of the Appeal Tribunal Hearing Officer, . , finding that good cause was not shown for the untimely filing of the employer's appeal and dismissing the appeal for want of jurisdiction in accordance with Section 2-603 and Section 2-614, 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 (OESC), the Appeal Tribunal, and the Board of Review pertaining to this appeal.

The employer argued that its appeal should be accepted as timely because it was only two days late. The employer cites the case of R&R Engineering Co., Inc. v. Board of Review, 322 P.3d 471 (2014 OK CIV APP 26), in which the Court ruled that an employer response that was eight days late should still suffice to make the employer an interested party in the claim.

That facts of that case differ from the one at hand. In R&R Engineering, the employer had filed a timely protest to the claim, but was then asked to send more specific information within two days regarding the reason for the claimant's job separation. The employer did not send the specific details until eight days had passed. The Court ruled the employer should still be considered an interested party. It is noted that the time limit to file a protest within 10 days is set by statute, and R&R Engineering did comply with that requirement. The two-day deadline to submit additional information was not set by statute but was set by the OESC in order to get the information as quickly as possible.

In the case now before the Board of Review, the employer did not file its protest to the claim within the 10-day period allowed by law. The OESC sent the employer a Notice of Determination informing it that its protest was late. The employer then had 10 days in which to appeal that Determination. The employer's appeal was filed two days after the appeal period set by statute. Since the employer did not establish that it was beyond its control to have filed the appeal on time, the Appeal Tribunal did not find good cause for the late submission and dismissed the appeal.

The Board of Review concludes that the findings of fact and the conclusion(s) previously adopted by the Appeal Tribunal are applicable and that same should be adopted by the Board of Review as asserted. It is therefore ordered by the Board of Review that the decision of the Appeal Tribunal is hereby AFFIRMED.

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COPIES TO: CLAIMANT
EMPLOYER

APPEAL RIGHTS

Within 30 days after the mailing date of this decision, as shown opposite, further written appeal for judicial review may be filed in the District Court of claimant's county of residence or in the District Court of Oklahoma County if claimant is not a resident of Oklahoma, in accordance with Section 2-610, Title 40, Ok. Stat.

CERTIFICATE OF MAILING

I certify on 7-20-15 I personally placed copies of this decision in the United States mail in envelopes addressed to the claimant and employer at their respective addresses shown on the decision. Said envelopes were sealed and bore indicia of proper postage paid.