

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

Docket No. **15-AT-10322-BR**

In Re: Claim of:

CLAIMANT

APPELLANT

SSA #

Date of Appeal to Board: **AUGUST 12, 2015**

OPINION

The BOARD OF REVIEW considered the findings and decision of the Appeal Tribunal Hearing Officer, affirming the Commission's determination by finding the employer's objection to the claim was not timely filed within the period provided by Section 2-503, 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 employer argued that good cause should be found for its failure to file a timely protest to this claim, because it was actually its attorney's mistake that caused the protest to be late. Good cause is defined in Rule 240:10-1-2 in the "Rules for the Administration of the Oklahoma Employment Security Act" as "reasons beyond the control of the party seeking relief." Rule 240:10-11-24 goes into more detail, stating that, "Good cause is defined as a situation beyond the control of the parties. Situations considered beyond the control of the party may include, a disabling personal illness, death in the immediate family, jury duty, military obligations or any other circumstance that would make it impossible for a party to . . . comply with a requirement of . . . the Employment Security Act of 1980, or any determination or notice served on the party. Good cause will not be found if the failure to act is due to the negligence or inattentiveness of the party or the party's representative or attorney-at-law." That definition is also given in Rule 240:10-13-37. It is clear the employer received the Notice of Application for Unemployment Compensation well within the 10-day protest period, so it was within its control to have filed a timely objection. It is unfortunate the employer's attorney did not file it within the statutory time period, but it was within his control, as the employer's chosen agent, to have done so. Accordingly, the Board of Review does not find good cause for the employer's late protest.

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 9-8-15 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.