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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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RUTH A. SANDERS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	
	)	No. 18 L 50491
THE DEPARTMENT OF EMPLOYMENT SECURITY,	)	
THE DIRECTOR OF EMPLOYMENT SECURITY, and	)	
THE BOARD OF REVIEW,	)	Honorable
	)	James M. McGing,
Defendants-Appellees.	)	Judge Presiding.

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JUSTICE CUNNINGHAM delivered the judgment of the court.  
Justices Connors and Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* The Board of Review of the Department of Employment Security's final decision dismissing plaintiff's administrative appeal for lack of jurisdiction is affirmed where plaintiff filed her appeal from the referee's dismissal of her challenge to an audit finding after the statutory 30-day time limit.

¶ 2 Plaintiff Ruth A. Sanders appeals *pro se*, from an order of the circuit court of Cook County affirming a final administrative decision by defendant, the Board of Review of the

Department of Employment Security (the Board). The Board dismissed plaintiff's administrative appeal for lack of jurisdiction. The appeal was filed three years after the referee dismissed plaintiff's challenge to an audit finding. Thus the appeal was untimely as it was filed well beyond the statutory 30-day time limit. In this untimely appeal before this court, plaintiff challenges the Board's dismissal of her appeal before that body. We affirm the ruling of the circuit court of Cook County.

¶ 3 The record shows that plaintiff began employment with Help At Home, LLC on April 15, 2010. As of May 24, 2013, plaintiff was still employed by Help At Home, but was working only part-time. On May 26, 2013, plaintiff applied to the Department of Employment Security (the Department) for unemployment insurance benefits. On June 5, 2013, the Department found plaintiff eligible for benefits based on her part-time status.

¶ 4 On March 19, 2015, the Department sent plaintiff a notice indicating that an audit revealed that she may have received benefits to which she was not entitled. The audit showed that plaintiff had either not reported, or improperly reported, wages she had earned from October through December of 2013. The audit showed that plaintiff had been overpaid \$1476 in benefits. The notice directed plaintiff to call an investigator at the Department to provide her statement in a fact-finding interview. The Department gave plaintiff a deadline of April 2, 2015, by which to respond to the audit finding. Plaintiff did not respond.

¶ 5 On April 20, 2015, the Department sent plaintiff a "Notice of Fraud Decision." The notice stated that plaintiff had failed to correctly report her employment and earnings from October through December of 2013. The Department found that plaintiff knowingly made false statements or failed to disclose material facts for the purpose of receiving unemployment

benefits for which she was not eligible. The Department determined that plaintiff was overpaid \$1476 in benefits due to fraud, and that she was required to repay the overpayment.

¶ 6 On May 8, 2015, plaintiff filed a written appeal to the Department's referee requesting reconsideration of the Department's decision. Plaintiff denied that she had committed fraud. Plaintiff stated that she had complied with the instructions she was given, and completed and submitted her work sheets as directed.

¶ 7 On May 19, 2015, the Department sent plaintiff a "Notice of Telephone Hearing" informing her that the hearing for her appeal would be held on June 3, 2015. The notice stated that the Department's referee, Administrative Law Judge James Ginder, would telephone her at the specific phone number she had provided to the Department at 11:30 a.m., or within one hour thereafter. The notice stated that plaintiff's failure to answer the telephone when Ginder called could result in a finding against her. The notice further provided that if plaintiff wished to be called at a different number, she must contact the appeals office at least 24 hours prior to the hearing. The notice indicated that continuances could be granted for exceptional reasons only, and explained the process for submitting such a request.

¶ 8 The Department also sent plaintiff a brochure entitled "Preparing for Your Appeal Hearing" which explained the importance of the telephone hearing. The document expressly provided "[i]f you are the appellant (you filed the appeal) and fail to participate, your appeal will be dismissed." The document further provided that to avoid dismissal of the appeal, plaintiff should remain available until after she has been contacted by the referee. In addition, the document explained that if plaintiff disagreed with the referee's decision, she could file a written appeal to the Board within 30 days of the mailing date of the referee's decision.

¶ 9 The transcript from the telephone hearing shows that Ginder called plaintiff at noon on June 3, but she did not answer. Ginder left plaintiff a message stating that the number he called was the only number on file for her, and that he would call again momentarily. Ginder called plaintiff a second time, and again, she did not answer. Ginder left plaintiff a message that he would call back one more time, and if she was able and willing to participate in the hearing, she should answer the telephone. When Ginder called the third time, a woman answered. Ginder asked to speak with plaintiff by name, and the woman told him that he had the wrong number. Ginder confirmed with the woman that he had correctly dialed the number which he had for plaintiff, but the woman denied that it was the plaintiff's telephone number.

¶ 10 On June 4, 2015, Ginder mailed plaintiff his "Administrative Law Judge's Decision" dismissing her appeal. In his decision, Ginder explained that he called plaintiff three times at the telephone number she had provided to the Department, left her two messages stating the purpose of his call, and on the third call was told that he had the wrong number. Ginder concluded that plaintiff had failed to make herself available for the hearing, and therefore, he was required by statute to dismiss her appeal.

¶ 11 The decision also indicated that plaintiff had further appeal rights. The decision explained that if plaintiff had failed to appear at the hearing, she could request a rehearing of the appeal. To do so, plaintiff was required to file a written request for rehearing within 10 days of the scheduled hearing, explaining why she did not attend the hearing or request a continuance. The decision also provided that plaintiff could file an appeal to the Board. The decision explained that a request for an appeal must be submitted in writing, mailed to the Board, and filed within 30 days from June 4, 2015.

¶ 12 The record shows that on September 8, 2017, the Department received a change of address notification from plaintiff.

¶ 13 On June 25, 2018, plaintiff submitted a written notice of appeal to the Board. Plaintiff apologized for missing her hearing. She stated that she was “sick” and that she “forgot” about the “appointment.” On the same date, plaintiff also submitted another change of address notification to the Department.

¶ 14 On July 20, 2018, the Board issued its final administrative decision dismissing plaintiff’s appeal. The Board noted that the referee’s decision was mailed to plaintiff at her last known address on June 4, 2015. The Board pointed out that the referee’s decision included a notice setting forth plaintiff’s right to file an appeal within 30 days. The Board stated that plaintiff’s appeal was due on July 6, 2015, and that she did not file her appeal until June 25, 2018. The Board explained that its jurisdiction to entertain an appeal from the referee’s decision is limited by section 801 of the Unemployment Insurance Act (Act) (820 ILCS 405/801 (West 2014)). The Act provides that a referee’s decision shall become final unless it is appealed to the Board within 30 days of the date of mailing. The Board concluded that plaintiff failed to file a timely appeal, and therefore, it had no jurisdiction to review her claim.

¶ 15 On August 14, 2018, plaintiff filed a timely *pro se* complaint for administrative review of the Board’s decision in the circuit court of Cook County. Following a hearing on December 5, 2018, the circuit court found that the Board’s decision dismissing plaintiff’s appeal for lack of jurisdiction was not clearly erroneous, and affirmed the Board’s decision. Plaintiff now appeals.

¶ 16 Initially, we observe that plaintiff’s *pro se* brief fails to comply with the requirements in Supreme Court Rule 341(h) (eff. May 25, 2018) and Rule 342 (eff. July 1, 2017). Plaintiff used

the form brief approved by the Illinois Supreme Court, however, she failed to complete any of the sections of the form. Most notably, plaintiff has not stated any issues for appeal, and her brief is completely devoid of any facts, argument, citation to legal authority, and a request for relief. Based on plaintiff's noncompliance with these rules, her appeal is subject to dismissal. *Marzano v. Department of Employment Security*, 339 Ill. App. 3d 858, 861 (2003).

¶ 17 The entirety of plaintiff's brief consists of a few short statements. Plaintiff states "I work real hard and I take care of my family, and I go to church a lot, so please forgive me." She further asserts "please help me so I don't really have to [sic] much to say but thank you."

¶ 18 Although not explicitly articulated in her brief, it is clear that plaintiff is challenging the Board's dismissal of her appeal. Because this issue is apparent, and we have the benefit of a cogent appellee's brief (see *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001)), we choose to entertain the appeal (see *Harvey v. Carponelli*, 117 Ill. App. 3d 448, 451 (1983)).

¶ 19 This court reviews the final decision of the Board rather than that of the circuit court. *Petrovic v. Department of Employment Security*, 2016 IL 118562, ¶ 22. Whether the Board had jurisdiction over plaintiff's appeal is a question of law which we review *de novo*. *Thompson v. Department of Employment Security*, 399 Ill. App. 3d 393, 395 (2010).

¶ 20 Pursuant to section 801(A) of the Act, the decision of the referee is final unless a party files an appeal with the Board within 30 days after the referee's decision is mailed. 820 ILCS 405/801(A) (West 2014); *Thompson*, 399 Ill. App. 3d at 395. Notice of the referee's decision is completed by mailing the decision to the last known address of the party entitled to receive it. 820 ILCS 405/804 (West 2014); *Thompson*, 399 Ill. App. 3d at 395. "Under the Act, the time for

filing an appeal from the referee's decision is strictly jurisdictional." *Automated Professional Tax Services, Inc. v. Department of Employment Security*, 244 Ill. App. 3d 485, 488 (1993). The Act does not provide the Board with any additional authority to entertain appeals that are filed more than 30 days after the referee's decision has been mailed. *Thompson*, 399 Ill. App. 3d at 395. Our supreme court has noted that the Act "does not provide for late filings for excusable neglect or for good cause." *Hernandez v. Department of Labor*, 83 Ill. 2d 512, 519 (1981).

¶ 21 Here, the record shows that Ginder mailed his referee's decision dismissing plaintiff's appeal to plaintiff at her last known address on June 4, 2015. The decision provided that plaintiff could file a further appeal with the Board. The decision explained that plaintiff's request for an appeal must be submitted in writing; mailed to the Board; and filed within 30 days from June 4, 2015. Thirty days from that date was July 4, which was a Saturday. Plaintiff therefore had until Monday, July 6, 2015, to file her appeal with the Board. Plaintiff filed her appeal on June 25, 2018, more than three years after the referee's decision had been mailed to her. When plaintiff did not appeal within 30 days, the referee's decision became final and the Board lost jurisdiction to entertain any further appeals by plaintiff. 820 ILCS 405/801(A) (West 2014); *Thompson*, 399 Ill. App. 3d at 395. Accordingly, the Board lacked jurisdiction to consider plaintiff's appeal that was filed three years later. We therefore find that the Board's final administrative decision dismissing plaintiff's appeal for lack of jurisdiction was proper.

¶ 22 For these reasons, we affirm the judgment of the circuit court of Cook County affirming the Board's decision.

¶ 23 Affirmed.