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Feb 14 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Shirley C. Robinson, Administrative Law Judge

Case No.: 22-ALJ-22-0227-AP

Appellate Case No. 2022-001718

Robert E. Shirley, Jr., Appellant,

v.

South Carolina Department of Employment
and Workforce and The Boeing Company, Respondents.

Respondent's Motion to Dismiss

Respondent South Carolina Department of Employment and Workforce (the Department) moves this Court to dismiss Robert E. Shirley, Jr.'s appeal for failing to timely file his initial brief and designation of matter and for failure to file a sufficient brief. The Department also requests the Court hold all deadlines in abeyance pending the Court's decision on this motion. In support thereof the Department respectfully shows:

I. Factual Background

Appellant filed an appeal in the Administrative Law Court (ALC) from a final agency decision issued by the Department's Appellate Panel (the Panel). *See Exhibit A, October 20, 2022 ALC Order.* The ALC order found substantial evidence supported the Panel's decision that Appellant voluntarily quit his available employment without good cause. *See Exhibit A.* Appellant

then went on to file a notice of appeal to this Court on November 29, 2022¹. On January 20, 2023, this Court issued a deficiency notice to the Appellant indicating that neither his initial brief, nor a motion for extension, had been received and that Appellant had ten days to serve and file his initial brief and designation of matter. On January 31, 2023, Appellant untimely served by mail on the Department a packet of documents purporting to be Appellant's Brief, Proof of Service of Appellant's Brief, Appellant's Designation of Matter, and Appellant's Proof of Service of Designation of Matter. *See Exhibit B, Appellant Brief, Appellant Designation of Matter, Proofs of Service, and Envelope in which the documents were received.*

II. Appellant's Appeal Should Be Dismissed for Failure to Timely File and Serve his Initial Brief and Designation of Matter.

Appellant failed to timely file his initial brief and designation of matter in accordance with Rule 208(a)(1), SCACR and Rule 209(a), SCACR and this Court's January 20, 2023, deficiency letter. An Appellant is required to file the initial brief and designation of matter within thirty days after serving the notice of appeal. Rule 208(a) and Rule 209(a). "Upon the failure of appellant to file and serve his brief within the time prescribed, the clerk of the appellate court **shall** sign an order dismissing the appeal, and the appeal shall not be reinstated except as provide by Rule 260." Rule 208(a)(4), SCACR. (emphasis added). Further, where "an appellant... has failed to comply with the requirements of [SCACR], the clerk **shall issue an order of dismissal...[and] shall not be reinstated** except by leave of the court, upon good cause shown, after notice to all parties." Rule 260(a), SCACR.

¹ This Court issued deficiency notices regarding Appellant's proof of service on December 13, 2022, and January 4, 2023. Appellant appeared to cure the deficiency when he mailed a corrected proof of service on January 12, 2023, indicating he served the parties on November 29, 2022.

Here, pursuant to Appellant’s corrected Proof of Service, he properly served his Notice of Appeal on November 29, 2022. As such, the deadline to file his initial brief and designation of matter was December 29, 2022. *See* Rule 208(a)(1) and Rule 209(a), SCACR (providing that the initial brief and designation matter shall be served within thirty days after the notice of appeal was served). On January 20, 2023, this Court issued a deficiency letter to Appellant providing in part that “[w]ithin ten (10) days of the date of this letter **you must serve and file** the initial brief of appellant and designation of matter, or **this appeal will be dismissed.**” (emphasis added). As such, the deadline for Appellant to file and serve his brief and designation of matter was extended to January 30, 2023.

Appellant did not file and serve his initial brief and designation of matter by mail until January 31, 2023, after the extended deadline provided by the Court. The envelope in which these documents were mailed shows a mailing date of January 31, 2023. *See Exhibit B.*² A postmark date is compelling evidence where timely service is at issue. *Green v. Green*, 320 S.C. 347, 465 S.E.2d 130 (Ct. App). Appellant’s proof of service for the brief indicates it was served “by depositing a copy in the United States Mail, “postage prepaid, on January 29, 2023” and the proof of service for the designation indicates it was served “by depositing a copy of it in the United States Mail, postage prepaid, on January 30, 2023.” *Exhibit B*. However, that clearly cannot be true. First, the brief and designation documents reflect a creation date in the grammarly application of 1/30/23. Second, the “facts and summary” page reflect a creation date of 1/31/23. *Id.* at p.8. Lastly, the date on the envelope is not merely a processing date of the mail, but rather the date of the postage itself. *Id.* at 10. Appellant could not have properly mailed out his brief and designation

² A review of CTRACK shows that the envelopes the Court received the documents in also has a metered postage date January 31, 2023.

of matter on Sunday, January 29, 2023, or January 30, 2023, with **prepaid postage** as indicated on his proofs of service, when the metered postage was not dated until Tuesday, January 31, 2023, and there was a document in that packet also dated for January 31, 2023. As such, Appellant did not timely file his initial brief and designation of matter, and the appeal should be dismissed pursuant to Rule 208(a)(4) and Rule 260(a).

III. Appellant's Initial Brief Fails to Comply with this Court's Rules and, as a result, this Court Should Dismiss his appeal.

This Court should dismiss Appellant's appeal because the document purporting to be his initial brief, in addition to being untimely submitted as described above, does not comply with Rule 208(b), SCACR. Rule 208(b) sets forth that "[t]he brief of appellant shall contain under appropriate headings and in the order here indicated[,]" 1) table of contents and cases, 2) statement of issues on Appeal, 3) statement of the case, 4) standard of review, 5) argument, and 6) conclusion. Rule 208(b)(1)(A)-(F), SCACR. For the argument section, the Rule states "[t]he brief shall be divided into as many parts as there are issues to be argued. At the head of each part, the particular issue to be addressed shall be set forth...followed by **discussion and citations of authority.**" Rule 208(b)(1)(E), SCACR. (emphasis added). Where an appellant fails to set forth a legal argument on an appealed issue, that issue should be considered abandoned. *See First. Sav Bank v. McLean*, 314 S.C. 361, 363, 444 S.E. 2d 513,514 (1993) (noting an issue is deemed abandoned where appellant fails to provide arguments or supporting authority for their assertions); *Ellie, Inc. v. Miccichi*, 358, S.C. 78,99, 594 S.E.2d 485, 496 (Ct.App.2004)("Numerous cases have held that where an issue is not argued within the body of the brief but is only a short conclusory statement, it is abandoned on appeal."). *See also* Rule 260(a), SCACR (stating the clerk shall issue an order of dismissal when an appellant as failed to comply with the requirements of Rules).

The purported initial brief submitted by Appellant contains no table of contents or cases, statement of the issues on appeal, standard of review, argument, or conclusion. It only contains a one-page section entitled “Statement of the Case.” In the submission there is no citation or discussion of case law or even citations to his proposed designated matters. As such, Appellant’s submission has failed to enable this Court to make any meaningful appellate review of the ALC order. In other words, the submission is not a brief.

Although the Department recognizes Appellant is *pro se*, a *pro se* litigant is held to the same standards as represented parties. *State v. Burton*, 356 S.C. 259, 265 n.5, 389 S.E.2d 6, 9 n.5 (2003) (“A *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”). Appellant submitted a brief that is patently insufficient pursuant to this Court’s rules and did not even frame any legal arguments with citations of legal authority in the matter under appeal to this Court. He has thus failed to advance his position and provided no basis for reversal. Consequently, this Court should dismiss Appellant’s appeal.

IV. Conclusion

Based on the foregoing, Appellant failed to timely file and serve an initial brief and designation of matter as required by Rules 208(a)(1) and 209(b). The Appellant also failed to serve a sufficient initial brief as required by Rule 208(b)(1)(A)-(F). Thus, the Department respectfully requests this Court dismiss Appellant’s appeal pursuant to Rule 260(a) for failure to comply with this Court’s rules. The Department also requests this Court hold all further time requirements in abeyance pending the Court’s decision on this motion.

Respectfully Submitted,

/s/ Valerie McMellan

Valerie McMellan (SC Bar No.101080)

SC Department of Employment and
Workforce

Post Office Box 8597

Columbia, SC 29202

803.737.0395 (phone)

803.737.0124 (fax)

Legal@dew.sc.gov

***Attorney for Respondent SC Department of
Employment and Workforce***

February 14, 2023

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Robert E. Shirley, Jr.,

Appellant,

vs.

South Carolina Department of Employment
and Workforce and The Boeing Company,

Respondents.

Docket No. 22-ALJ-22-0227-AP

ORDER

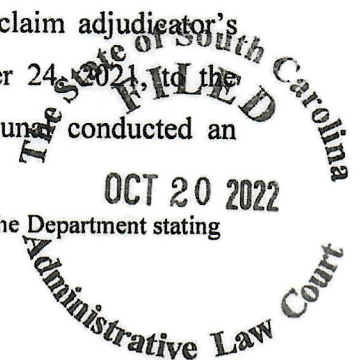
STATEMENT OF THE CASE

This matter is before the Administrative Law Court (ALC or Court) pursuant to appeal filed by Robert E. Shirley, Jr. (Appellant) from the South Carolina Department of Employment and Workforce’s (Department) Appellate Panel (Panel) Decision No. 22-HA-000626, affirming the decision of the Appeal Tribunal (Tribunal) finding that Appellant was disqualified from benefits on the basis he voluntarily left employment without good cause. On June 1, 2022, Appellant commenced this action seeking judicial review of the Panel’s decision. This Court has jurisdiction to hear this matter pursuant to Sections 1-23-380 and -600(E), and Section 41-35-750 of the South Carolina Code. S.C. Code Ann. § 1-23-380 and -600 (Supp. 2022); S.C. Code Ann. § 41-35-750 (2021). Upon consideration of arguments raised in the parties’ briefs, and a review of the record on appeal and the law, the decision of the Department’s Appellate Panel is affirmed.

BACKGROUND

Appellant worked for The Boeing Company (Employer) from May 4, 2012, until June 1, 2020, and most recently, as an assembler. On June 15, 2020, an application was made for unemployment benefits. On December 17, 2021, the claims adjudicator mailed his decision concluding Appellant was ineligible for benefits from June 14, 2020, finding Appellant voluntarily left his employment without good cause.¹ Appellant timely appealed the claim adjudicator’s determination by mail on December 23, 2021, and facsimile on December 24, 2021, to the Department’s Appeal Tribunal (Tribunal). On March 16, 2022, the Tribunal conducted an

¹ On February 27, 2021, Appellant completed a Claim Verification Notice for submission to the Department stating he had been laid off and that it was COVID related.



evidentiary hearing. Appellant testified as did Employer's human resources data management specialist and a quality manager. Employer was represented by legal counsel.

Appellant testified he did not voluntarily quit his job on June 1, 2021, and instead, was asked to leave by the plant supervisor but given no reason. Appellant gathered his belongings and left without asking whether he was being discharged from his employment. Appellant did not subsequently follow up with Employer to get clarity as to why he was asked to leave.

Appellant testified that a couple weeks after he was asked to leave Employer's premises, funds started being deposited into his checking account. Based on this, Appellant assumed Employer had submitted a claim for benefits on his behalf. Appellant testified he never filed the claim and Employer testified it never files benefits claims on behalf of its employees. Employer's testimony is contradicted by the record which contains a facsimile from Employer's representative, Equifax, to the Department on June 2, 2021.² Appellant said the Department's paperwork initially said, "Layoff," but was subsequently changed to, "Other."

Appellant testified that on May 29, 2021, just three days before he was asked to leave Employer's premises, his worker's compensation claim was mediated and a settlement reached with Employer. Appellant testified a condition of the agreement was that he could no longer work for Employer. Appellant referred to it as being "pretty much forced to quit or leave or resign or whatever you want to call it." On that same or the following day (May 29th or May 30th), Appellant posted on Facebook that he was retiring.³ On July 9, 2020, Appellant signed the settlement agreement in connection with his worker's compensation claim. Appellant testified the settlement agreement contained a resignation clause.

Employer's human resources data management specialist had limited relevant information. She was unaware of any executed settlement agreement relating to Appellant's separation from the company and insisted any such agreement would be contained in her records if it existed. The human resources data management specialist is physically located in Plano, Texas and not in the

² Also, in referring to this facsimile of June 2, 2021, the Department's brief states, "The Employer had previously filed a one-week unemployment claim for Appellant for week ending May 2, 2020."

³ At the hearing, Appellant admitted he posted on Facebook that he was retiring but did not say he was retiring specifically from Employer. He said part of the reason for his post was that his wife had just become eligible for Medicare and did not realize his Facebook friends "would take it the way they took it ... And - - it was basically for someone else. One of my friends. Because he and I have been talking about some other things, and all of a sudden it just took off like wildfire."

local office where Appellant was employed. Employer's quality manager also had no direct knowledge of what transpired on June 1, 2021.

On March 18, 2022, the Tribunal issued its decision. After noting the conflict in the parties' testimony and stating it was difficult to reconcile what actually occurred with regard to Appellant's separation from employment, the Tribunal concluded a preponderance of the evidence indicated Appellant voluntarily quit. The decision also noted Appellant publicly stated his desire to retire via social media. On April 4, 2022, Appellant timely appealed the Tribunal's decision to the Panel. On May 17, 2022, the Panel mailed its decision affirming the Tribunal's finding that Appellant voluntarily quit employment without good cause.

On June 1, 2022, Appellant filed a Notice of Appeal. Appellant filed his brief on September 19, 2022. The Department filed its brief on October 6, 2022. On October 15, 2022, Appellant filed a reply.

ISSUE

Whether substantial evidence exists in the record to support the Department's decision Appellant was indefinitely disqualified from receiving benefits upon finding he voluntarily left work without good cause.

STANDARD OF REVIEW

The Department is an "agency" under the Administrative Procedures Act (APA). *See Gibson v. Florence Country Club*, 282 S.C. 384, 386, 318 S.E.2d65, 367 (1984) (finding that the Employment Security Commission, a predecessor of the Department, was an agency within the meaning of the APA). This Court reviews decisions of the Department in an appellate capacity and is "restricted to reviewing the decision[s] below." *Al-Shabazz v. State*, 338 S.C. 354, 377, 527 S.E.2d 742, 754 (2000). According to Section 1-23-600(E) of the South Carolina Code, when acting in an appellate capacity, the Court must apply the criteria of Section 1-23-380(5) which states:

- (5) The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
- (a) in violation of constitutional or statutory provisions;
 - (b) in excess of the statutory authority of the agency;

- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380 (Supp. 2022).

A decision is supported by substantial evidence when the record as a whole allows reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010). The fact that the record, when considered as a whole, presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency's findings from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). In applying the substantial evidence rule, "a reviewing court will not overturn a finding of fact by an administrative agency 'unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.'" *Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Natural Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981)). When applying the substantial evidence rule, the factual findings of the administrative agency are presumed to be correct. *Rodney v. Michelin Tire Co.*, 320 S.C. 515, 466 S.E.2d 357 (1996).

Furthermore, the reviewing court is prohibited from substituting its judgment for that of the agency as to the weight of the evidence on questions of fact. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 461 S.E.2d 388 (1995). Finally, the party challenging an agency action has the burden of proving convincingly that the agency's decision is unsupported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 467 S.E.2d at 917.

DISCUSSION

The public policy underlying the unemployment insurance program is to provide benefits only to those who are unemployed through no fault of their own. S.C. Code Ann. § 41-27-20 (2021). Thus, an insured worker is eligible to receive benefits only if the Department finds he "has separated, through no fault of his own, from his most recent bona fide employer." S.C. Code Ann. § 41-35-110(5) (2021). As noted by the Department, "'fault' in this context is not limited to something that is blameworthy, culpable or wrong," but rather, "must be construed as meaning failure or volition." *Stone Mfg. Co. v. S.C. Emp't Sec. Comm'n*, 219 S.C. 239, 246-247, 64 S.E.2d

644, 646 (1951) (citations omitted). Also, when an employee resigns employment for a negotiated settlement, the employee is ineligible for benefits. See *Ex parte S.C. Emp't Sec. Comm'n, v. Medical University of South Carolina*, 332 S.C. 286, 504 S.E.2d 345 (1998).

Here, substantial evidence exists in the record to support the Panel's decision finding Appellant voluntarily severed his employment with Employer without good cause and pursuant to a negotiated settlement agreement that required his resignation. While Appellant maintains there was no official paperwork until he signed the settlement agreement on July 9, 2020, he volunteered at the hearing that the agreement reached on May 29, 2020, required him to resign as a condition of settlement. Appellant discounted his intent at the hearing before the Panel, but nevertheless, announced his resolve to retire on social media immediately following the verbal agreement that had been reached on May 29, 2020. Appellant testified at the hearing he had planned to retire but it "was probably going to be right around October." In his briefs, however, Appellant stated a different date of retirement of January 2021.

While the Court is empathetic with Appellant's position, even if it viewed the evidence in a different light than the Panel, the law prohibits the Court from substituting its judgment as to the weight of the evidence. *Grant v. S.C. Coastal Council*, supra. While some of the evidence is disputed, evidence exists in the record from which a reasonable person could conclude Appellant voluntarily quit his employment without good cause. In his reply, Appellant stated that he would like to see the Department's evidence that he voluntarily quit on or before June 1, 2020; unfortunately, in an appeal such as this, the burden is on Appellant to convincingly prove the agency's decision is unsupported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 467 S.E.2d at 917. Appellant failed to meet this burden.

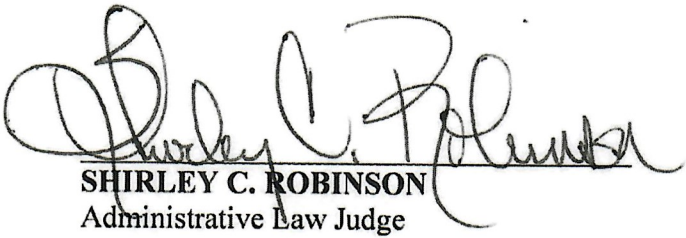
In Appellant's brief, he raised issues regarding his availability for employment, overpayment, and waiver. These issues were not raised at the hearing before the Tribunal or addressed in the Tribunal or Panel's decision in this case. Unfortunately, the Court cannot consider them in this case as its review is confined to the record and decision issued by the Panel in this case. *Brown v. S.C. Dep't of Health & Envtl. Control*, 348 S.C. 342, 373, 628 S.E.2d 902, 919 (Ct. App. 2006) ("[I]ssues not raised to and ruled on by the agency are not preserved for judicial consideration."

ORDER

Based on the foregoing,

IT IS HEREBY ORDERED that the decision of the South Carolina Department of Employment and Workforce's Appellate Panel is **AFFIRMED**.

AND IT IS SO ORDERED.



SHIRLEY C. ROBINSON
Administrative Law Judge

October 20, 2022
Columbia, South Carolina

Exhibit A

CERTIFICATE OF SERVICE

I, Shanice Hagood, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Shanice Hagood
Judicial Law Clerk

October 20, 2022
Columbia, South Carolina

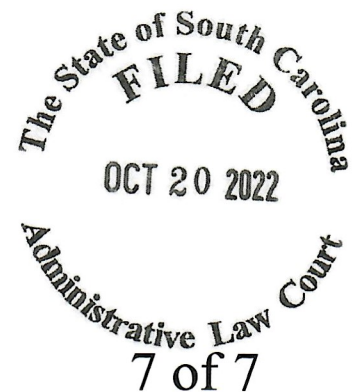


Exhibit B *Back 2/16 CM*

PROOF OF SERVICE OF APPEAL
THE STATE OF SOUTH CAROLINA In The Court of Appeals
Appellant's Brief

Appellate Case No. 2022-001718

Judge Shirley Robinson
SC Administrative Law Court
Case No. 22-ALJ-22-0227-AP

Robert E. Shirley JR. Appellant.

v.

Respondent, (s)

The Boeing Co. South Carolina Department of Employment
and Workforce, Respondents

PROOF OF SERVICE

I certify that I have served the Notice of Appellant's Brief on
The S.C.Department of Employment and Workforce
The Attorney of record Vallerie McMellan PO Box 8597
Columbia, SC 29202. (803) -(737)-(0395)

The Boeing Co. PO Box 3707 MC6x5 02 Seattle WA 98124
Employer

The SC Administrative Law Court
EDGAR A. BROWN BUILDING 1205 PENDLETON ST., SUITE 224
COLUMBIA, SC 29201

by depositing a copy of it in the United States Mail, postage prepaid, on
January 29th, 2023

Robert E Shirley Jr.

16 Stocker Dr.

Charleston SC, 29407

1-843-763-3493

Representing Self

A handwritten signature in black ink, appearing to read "Robert E. Shirley Jr.", written in a cursive style.

STATEMENT OF THE CASE

I would like to ask the court to keep these proceedings by their accurate dates. These dates are the ones in question only. 06/01/2020 through 06/30/2020. Any evidence before 06/01/2020 is false. Per Boeing's Attorney(s) mediator there was no W.C. meeting. No one was present. On 06/01/2020. I was at work at 5 a.m. my ending time was around 1:15 p.m. During my 8 years of employment, I have witnessed quite a few employees lose their jobs. I know the drill. When an employee is being dismissed the employee will go to management's office usually with HR present. That was not the case that day. The HR Rep. and my second-level Mgr. came to my work area. The HR Lady I don't know her name nor can I get it from Boeing S.C. My second-level Mgr. Stewart was also with her. As she walked by my work area she said Mr. Shirley gather your belongings you need to leave. I approached her to ask why she once again said you need to leave now. No meeting I wasn't allowed a conversation. All that was said was by my second-level Mgr. outside. You can blame your lead. I shook his hand and thanked him for all the help he had given me in the past. I gave him my badge and left with no reason given from H.R. other than what Stewart told me. Mr. Medlock's response about what I should have done would have caused a problem one which I didn't want or need confrontation. On 06/01/2020 my job ended anything that happened after that date is not admissible I was free to make any decisions that I wanted to make. I don't think anyone can see what the future is. There was no W.C. settlement before 06/01/2020.

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Appellate Case No. 2022-001718

Judge Shirley Robinson

SC Administrative Law Court

Case No. 22-ALJ-22-0227-AP

Robert E. Shirley JR.

Appellant.

v.

Respondent, (s)

THE Being Co. South Carolina Department of
Workforce,

Employment and

PROOF OF SERVICE

I certify that I have served the Notice of Appeal Designation of Matter on
The S.C.Department of Employment and Workforce
The Attorney of record Vallerie McMellan PO Box 8597
Columbia, SC 29202. (803) -(737)-(0395)

The Boeing Co. PO Box 3707 MC6x5 02 Seattle WA 98124

Employer

The SC Administrative Law Court

EDGAR A. BROWN BUILDING 1205 PENDLETON ST., SUITE 224

COLUMBIA, SC 29201

by depositing a copy of it in the United States Mail, postage prepaid, on
January 30th 2023

Robert E Shirley Jr.

16 Stocker Dr.

Charleston SC, 29407

1-843-763-3493

reshirley@bellsouth.net

Representing Self

A handwritten signature in black ink, appearing to read "Robert E. Shirley Jr.", written in a cursive style.

Designation of Matter to be Included in the Record on Appeal

THE STATE OF SOUTH CAROLINA In The Court of Appeals
Case No.2022-001718

Robert E. Shirley Jr. Appellant

V

S.C. Department of Employment And Workforce
And The Boeing Co. Respondent's

The S.C.Department of Employment and Workforce
The Attorney of record Vallerie McMellan PO Box 8597
Columbia, SC 29202. (803) -(737)-(0395)

The Boeing Co. PO Box 3707 MC6x5 02 Seattle WA 98124
Employer

The SC Administrative Law Court
EDGAR A. BROWN BUILDING 1205 PENDLETON ST., SUITE 224
COLUMBIA, SC 29201

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD On
APPEAL

Appellant proposes the following be included in the Record on
Appeal

1. The completed Application form for U.I. from DEW
2. The proof of evidence of voluntary quitting on 06/01/2020
3. The proof that I was retiring from Boeing
4. A signed legal document on or before 06/01/2020 that the appellant had agreed on a settlement from W.C.
5. A DEW IT person or agent that is knowledgeable with their web.

Exhibit B

4/7/2022 7 59 PM FROM: Office Depot H3357 P. 3 / 5

4/3/22, 5:43 PM

Grammarly

Short description

layoff date

Case Description

would like to find out my last day at work.

History

Oroosa Latif - 3347774

2021-01-23 00:49:15 Additional comments

Hi Robert,

This is in regards to the request you've initiated on 2021-01-19 regarding your query on layoff date. We have reviewed your query and responded with the information. We kept the request Open because we wanted to make sure the information we shared resolves your query however we haven't received a response from you.

We understand this must be a busy time for you; we will be closing this request for now as mentioned on our previous response, please initiate a new request under the "Get Support" section on the Worklife Portal in your convenience in case you need additional assistance we will resolve your request in priority. You can also contact our Worklife at 1-800-473-2016 to get assistance anytime (Opens 24/7)

We appreciate you reaching out to us,

Worklife

Oroosa Latif - 3347774

2021-01-19 05:14:11 Additional comments

Hi Robert,

Thank you for contacting us. This is in regards to the Request you've initiated 2021-01-19 regarding your question on layoff date. We have reviewed your request and here is the information-

Your layoff date is 06/02/2020.

After we rec. 1st deposit, I looked at my Boeing website and found this

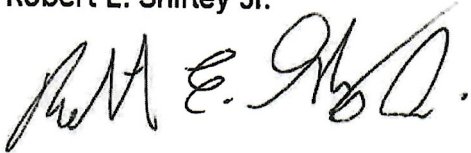
Please let us know if this answers your question. We will keep this request Open for 72 business hours and please respond within this timeline if you need additional assistance. The request will be closed post

between Boeing & DEW Everything

FACTS AND SUMMARY

On 06/01/2020. My employee and employer status ended. The term leave your workplace would mean you are relieved of your job. The taking of my ID allows me to enter the plant and any building and it also records my time. The term employee being walked out is a common fraise in all workplaces and also means your employment has ended. HR wouldn't give me a reason although I feel I was entitled to one. So I was let go without cause. As we all know SC is the right-to-work state. The employer can dismiss a person for any reason. In my case, it was done by one person. Mr. Medlock's report was irrelevant. He based his opinion on something that was after 06/01/2020. The appeal tribunal just followed him. The time I was allowed wasn't enough to read a short paragraph. As soon as I walked in by their expressions and demeanor you could tell I had no chance. On or about 06/16/2020 my benefits were stopped due to able and available. Not knowing why. I contacted DEW to inquire about the reason. It was explained to me. All I said was I didn't understand the process. The Agent advised me to send a letter which I did. That's all I did.

Robert E. Shirley Jr.

A handwritten signature in black ink, appearing to read "Robert E. Shirley Jr.", written in a cursive style.



South Carolina
Department of Employment and Workforce



10458098

ROBERT E SHIRLEY JR
16 STOCKER DR
CHARLESTON, SC 29407-7416

Date of Notice: 06/16/2020
SSN: XXX-XX-8595
Claimant ID: 10988731

ABLE AND AVAILABLE NOTICE - BENEFITS STOPPED

Our records indicate that you have an *Able and Available issue on your claim* that additional information is needed for us to determine your continued eligibility for benefits. Therefore, your benefits have been stopped.

Please log on to the Mybenefits Portal at dew.sc.gov immediately and complete the requested fact finding(s) to supply further information.

Fact Finding : Schedule Limitation

You have five days from the mailing date of this notice to complete the requested fact finding. Failure to complete the fact finding within five days of this notice will result in a determination on your continued eligibility based on the available information, and may result in *delay or denial of your benefits*. If you need further assistance on this issue you can call 1-866-831-1724.

Stoener Nr.
25. S.C. 29407

U.S. POSTAGE PAID
FORM 1615 ENV
CHARLESTON, SC
29407
JAN 31, 23
AMOUNT

\$1.74
R2303S103777-02



29202



RDC 99

S.C. DEPARTMENT OF EMPLOYMENT AND WORKFORCE
ATTORNEY OF RECORD VALERIE McMELLAN
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Feb 14 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
Shirley C. Robinson, Administrative Law Judge

Case No: 22-ALJ-22-0227-AP

Appellate Case No. 2022-001718

Robert E. Shirley Jr.,

Appellant,

v.

South Carolina Department of Employment and
Workforce and The Boeing Company,

Respondents.

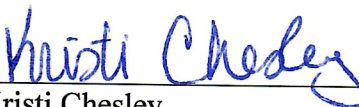
PROOF OF SERVICE

I certify that I have served the Respondent's Motion to Dismiss on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, on February 14, 2023, addressed to the parties at their addresses of record:

Robert E. Shirley Jr
16 Stocker Dr
Charleston SC 29407

The Boeing Company
PO Box 3707, MC6x5 02
Seattle WA 98124

February 14, 2023



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