

Motion To Reject SCDEW's Request For Dismissal
case # 2022-001718

Roert E. Shirley Jr. Appellant

V.

S.C. Department Of Employment And Workforce and
The Boeing Co. Respondents

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AUG 17 2023

SC Court of Appeals

I Respectfully ask the court to remove the Dismissal of the Appellants Initial Brief by SCDEW. I have done 2 Initial briefs 1 to the A.L.C. around Sept. 2022 and 1 to the SC Court Of Appeals. A.L.C. accepted my brief. The one to the S.C. court Of Appeals is equal to or better. Also, I request to keep my case in the 30-day window from 06/01/2020-07/01/2020. Anything after these 30 days should be considered irrelevant. According to the document from Boeing on 06/02/2020. I don't have unlimited resources or the time limits that will be put upon me to do another Brief. SCDEW knows this so I ask the court to accept my Brief as is as did A.L.C. I have included a copy of that brief ffor comparison.

Thank you

Robert E Shirley Jr.

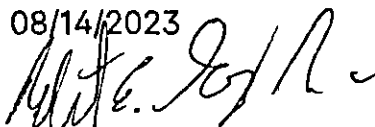
16 Stocker Dr.

Charleston SC,29407

1-843-763-3493

Representing Self

08/14/2023



PROOF OF SERVICE OF Motion

THE STATE OF SOUTH CAROLINA In The Court of Appeals
Motion To Reject SCDEW's Motion To Dismiss
Appellate Case No. 2022-001718

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AUG 17 2023
SC Court of Appeals

Robert E. Shirley JR. Appellant
V.

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 Motion To Reject SCDEW's Motion To Dismiss

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

S.C. Court Of Appeals
PO Box 11629
Columbia S.C. 29211
The Boeing Co. PO Box 3707 MC6x5 02 Seattle WA 98124
Employer

by depositing a copy of it in the United States Mail, postage prepaid, on
August 14, 2023

Robert E Shirley Jr.
16 Stocker Dr.
Charleston SC,29407
1-843-763-3493
Representing Self
August 14, 2023



State Of South Carolina Law Court

The Honorable Shirley C. Robinson

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

Date: September 7, 2022

APPEAL

Robert E. Shirley Jr.

Appellant Vs

South Carolina Department Of

Employment And Workforce

And The Boeing Co

Robert E. Shirley Jr. Claimant

16 Stocker Dr. Charleston S.C. 29407

Valerie McMellan Attorney for DEW

Office of General Counsel DEW

PO Box 8597

state of s.c.

The Boeing Co.

MC6X5 02

Seattle WA.98124

Employer

Response

Voluntary Quit. I didn't quit my job I was forced. On 5/29/2020 Boeing's attorney with full authority told me I couldn't go back to work on 6/1/2020. They said the co. felt due to my injury that it had become a liability. This meeting was arranged by the co,s attorney. I had been trying to avoid it for over 2 years,s. After 5 hours,s I had enough. All I wanted to do was end this meeting. When it did end My wife and I spoke and we decided to not agree with the terms. There was nothing in writing no documents or legal paperwork. I did a post on Facebook I'm retired just a joke not intended for Boeing. On 6/1/2020 I was at work from 5:30 AM worked till 1:30 PM. That,s when HR and my supervisor walked into my cell. She walked past me turned and told me to gather my things and leave. I walked toward her to ask why she said just to get your things and leave. This is not Boeing's procedure. My supervisor told me how sorry he was and told me I could thank my lead for this I shook his hand and left. I didn't want to cause a scene that isn't in my nature.

Working Environment

From around February 2020, the environment at work changed significantly. Lat-offs were offered. People worried about their jobs including myself. My job was one of a few in the pant that was sought after. I loved my job. With all that was going on with the co. I started getting harassed. Why don't you retire 2-3 times a week. Some would call my lead and ask if iI had left yet weekly. My answer was when I was told. I'll be gone when the coroner takes me out the door. This should explain how dedicated I was about my work. When covid hit the environment worsened. We were sent home for 14 days at one point. Work was very slow. People were not taking precautions. In the early stages of covid, no one didn't know what to do. I was concerned for myself and more so for my wife. We are considered at High Risk due to our health problems.

Retirement

because of the environment at work. On 5/23/2020 we met with a retirement advisor. Basically, due to my age and some debts, his advice was you need to clear your debt and wait till the end of the year. On

Worker's Compensation Settlement

I would like to set the record straight. I had hip surgery and was out of work for a little over a year. The world doesn't stop. Living expenses, bills, etc. keep going. It seems I have left my job for monetary benefits. This wasn't the case I'm not a person that fits that profile. I avoided this settlement issue as long as I could. The calls, letters, and e-mails it's overwhelming. I didn't get legal help until towards the end. As I said earlier. I had no intention of signing off on it. The amount that was offered didn't come close to what I lost in pay, benefits, and 401k. and paying Cobra insurance. Not to mention the pain I still have and a limp. Saying for momentary benefits I feel it was uncalled for it had absolutely nothing to do with my UI case.

Summary

My appeal is based on No Fault.

My UI claim from Boeing was for 2 weeks. After that, my account should have been closed according to one of DEW'S agents. In my experience, it takes a person with the proper credentials to open a claim or the employer. I admit I opened it but I was allowed to. Before going to DEW'S website I went to WORLIFE the Boeing website. This is an HR web for Boeing employees. I sent a request to find out my exact end-of-service date. The answer was Layoff 6/2/2020. This is the reason I continued the application. On 6/16/2020 I was found ineligible. This is where it should have stopped and I had no problem whatsoever for it to stop. Just to find out why I called I didn't complete it. Later I was told that someone from UI filled out my claim shortly after my initial claim. Then UI started sending deposits I made close to 50 call's to UI to find out why. No one had an answer. I did my due diligence the failure was as DEW.

(Attachments are included)

Financial

When I lost my job on 6/1/2020 I wasn't of age to retire. From this date till 11/16/2020. We had exhausted most of our savings. Our income is from S.S. and a small retirement fund. Our retirement fund monthly amount has dropped 23% due to the economy cost of living is up so high our income barely keeps up with it. We don't have the means to pay this amount or make the payments collections have proposed. I sent a waiver form but it was denied. They should have that form on file. This whole ordeal has been devastating to us. I have been in the workplace and paid taxes in S.C, for over 50 years. This will be one of the worst things to ever happen to us. It will be a financial hardship. I don't know if we will be able to survive. We don't want or have family help.

I apologize for this non brief response I tried but it was so bad i just threw it away.

Robert Shirley



South Carolina
Department of Employment and Workforce



10462515

Claimant Name: ROBERT E SHIRLEY JR
Claimant Party ID: 10988731
Issue ID: 7031358

Employer Name:

User ID: I

Fact Finding Questions	Responses
You have indicated you cannot work the same schedule which you previously worked: is this correct?	No
When you completed your claim, you indicated that you cannot work the same schedule. Why has your answer changed?	Other
Why did you state you cannot work the same schedule?	enter error

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 16, 2020 09:18 AM



South Carolina
Department of Employment and Workforce



17725176

Claimant Name: ROBERT E SHIRLEY JR
Claimant Party ID: 10988731
Issue ID: 11403406

Employer Name:
User ID: I

Fact Finding Questions	Responses
You have indicated you cannot work the same schedule which you previously worked: is this correct?	Yes
I understand that schedule limitations could affect my eligibility for benefits.	Yes
On what date did you become unavailable to work the same hours and/or days as you last worked?	05/31/2020
What is the reason you cannot work the same hours and/or days as you did on your last job?	would like a different schedule.
Are you in an approved training program through a state or local program?	No

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: April 25, 2021 04:52 PM

Please enter under claims



South Carolina
Department of Employment and Workforce



9293000

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APR 07 2022

Document Control

05/14/2020

claimant SSN XXX-XX-8-#
claimant ID 10290731

ROBERT E SHIRLEY JR
16 STOCKER DR
CHARLESTON SC 29407-7415

Notice to Claimant of Claim Filed by THE BOEING COMPANY

To: ROBERT E SHIRLEY

Employers may file low earnings or partial unemployment claims on behalf of their employees. THE BOEING COMPANY has submitted an unemployment claim on your behalf for claim week ending 05/02/2020. You do not need to file an additional claim. You may log on or register for an account by visiting <https://scuihub.dew.sc.gov/CSS/CSSLogin.htm> your link to the MyBenefits portal.

After logging on to your account, you must certify your weekly claims for each week the employer submits by clicking "certify weekly benefits." To receive unemployment benefits you must certify your claims and be able and available for work. You must also report any wages earned during the week, including temporary or part time.

You may not certify for the week until your employer has submitted the claim on your behalf. You have 14 days from the submission of the claim to certify the respective weeks. If you have any other questions, please contact 1-866-631-1724 for assistance.

05-14-2020
Dew



South Carolina
Department of Employment and Workforce



10458098

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

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

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.

Robert Shirley-Jr - 2171874

2021-01-18 17:52:02 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.

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 72 business Hours assuming your query has been resolved.

We appreciate you reaching out to us,

Worklife

Robert Shirley-Jr - 2171874

2021-01-18 17:52:02 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.

Financial

When I lost my job on 6/1/2020 I wasn't of age to retire. From this date till 11/16/2020. We had exhausted most of our savings. Our income is from S.S. and a small retirement fund. Our retirement fund monthly amount has dropped 23% due to the economy cost of living is up so high our income barely keeps up with it. We don't have the means to pay this amount or make the payments collections have proposed. I sent a waiver form but it was denied. They should have that form on file. This whole ordeal has been devastating to us. I have been in the workplace and paid taxes in S.C, for over 50 years. This will be one of the worst things to ever happen to us. It will be a financial hardship. I don't know if we will be able to survive. We don't want or have family help.

I apologize for this non brief response I tried but it was so bad i just threw it away.

Robert Shirley

EQUITY AND GOOD CONSCIENCE

In determining whether recovery of an overpayment is against equity and good conscience for the purpose of deciding whether the overpayment of benefits shall be waived, the Department shall consider the following non-exclusive factors:

- a. The extent to which recovery of the overpayment would create an extraordinary financial hardship on the claimant. Extraordinary financial hardship as used herein means the claimant would be unable to provide himself or his immediate family with minimal necessities (e.g., food, shelter, basic utilities) as a result of the Department recovering the overpayment;
- b. The nature and cause of the overpayment, including whether Department error contributed to causing the overpayment;
- c. Whether the claimant had notice that if a decision to pay benefits was reversed, an overpayment would be created;
- d. Whether the claimant detrimentally changed his/her position in reliance upon receipt of benefits; and
- e. Any other relevant factor that relates to fairness and good conscience.

S.C. Code Regs. 47-103

Added by State Register Volume 38, Issue No. 2, eff February 28, 2014

PROOF OF SERVICE OF DESIGNATION OF MATTER

Amended To Include Date

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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Appellant

V.

The Boeing Co. South Carolina Department of Employment
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I certify that I have served the Notice of Appellant's response on
Designation Of Matter

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

S.C. Court Of Appeals

PO Box 11629

Columbia S.C. 29211

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

Employer

by depositing a copy of it in the United States Mail, postage prepaid,

Representing Self

Robert E Shirley Jr.



16 Stocker Dr.

Charleston SC,29407

1-843-763-3493

08/12/2023

ROBERT SHIRLEY
16 Stockey Dr.
CHAS. S.C. 29407

Retail



29211

RDC 99

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CHARLESTON, SC 29407
AUG 15, 2023

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S.C. Court of Appeals
P.O. Box 11629
Columbia S.C. 29211

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