

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Tanya A. Vaughan-Youmans,)	Docket No. 13-ALJ-22-0095-AP
)	
Appellant,)	
)	
v.)	ORDER OF DISMISSAL
)	
State of South Carolina Department of)	
Employment and Workforce and Darby)	
Realty Company, Inc.,)	
)	
Respondents.)	
)	

This matter is before the Administrative Law Court (ALC or Court) pursuant to an appeal filed by Tanya A. Vaughan-Youmans (Appellant). Appellant filed a Notice of Appeal on February 28, 2013. On March 15, 2013, the Court served the parties with an Order of Procedure setting forth filing deadlines. The Record on Appeal was filed April 4, 2013. The Order of Procedure required the Appellant to file her brief within twenty (20) days after the filing of the Record on Appeal. Darby Realty Company, Inc. (Darby) filed a Motion to Dismiss (Motion) on May 3, 2013, arguing that Appellant failed to file a brief in accordance with the Rules of Procedure for the ALC. Appellant filed a response to the Motion on May 8, 2013, asserting that she had not received any information from the Court prior to receiving the Motion; that she did not receive the Record on Appeal until April 24, 2013; and that when she received the Record on Appeal, it was damaged. Appellant also filed her brief on May 8, 2013. Darby filed its brief on May 28, 2013. On June 3, 2013, The South Carolina Department of Employment and Workforce (DEW) filed a Motion to Dismiss on two grounds: (1) Appellant failed to assert any statement of issue or error in the appeal and (2) Appellant failed to assert any statement of issues or citation of authority in her purported "brief." As of the date of this Order, Appellant has not responded to DEW's Motion to Dismiss.

DISCUSSION

Filing of Brief

Appellant asserts in her response to the Motion that she has not received any information from the Court in this case and therefore did not have a docket number in order to file

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documents. The Clerk of Court for the ALC mailed the Notice of Assignment (Notice) to the parties on March 14, 2013. This Notice was returned to the ALC by the United States Postal Service. In addition, the Court sent the Order of Procedure to the parties on March 15, 2013. This Order was sent to the Appellant at the address she provided: 218 Reagan Drive, Summerville, South Carolina 29483.¹ This document, like the Notice, has not been returned to the ALC by the United States Postal Service. Because the documents mailed by the Court have not been returned by the Postal Service, there is the presumption that the addressee received the mail in due course. *Calder v. Commercial Cas. Ins. Co.*, 182 S.C. 240, 188 S.E. 864 (1936). *see also Foster v. Ford Motor Credit Co.*, 302 S.C. 450, 395 S.E.2d 440 (1990).

Additionally, Appellant attached a copy of the envelope containing the Record on Appeal to her response. The envelope is properly addressed, has sufficient postage, and shows a mailing date of April 4, 2013. Although there is an indication from the Postal Service that the envelope was damaged, there is nothing to indicate it was not delivered in a timely fashion other than Appellant's assertion that she did not receive it timely.

Rule 37 of the South Carolina Administrative Law Court Rules (SCALCR) provides that "[i]n appeals from the Department of Employment and Workforce, the appellant shall file its brief with the Court within twenty (20) days after the Record on Appeal is filed." Rule 38, SCALC further provides that the Court may dismiss an appeal for failure of a party to comply with any of the rules of appellate procedure or an Order of the Court.

Here, the Record on Appeal was filed on April 4, 2013. Appellant received the Record on Appeal and thereafter failed to comply with the rules or the specific notice of the appellate timeframes set forth in the Court's order.²

Sufficiency of Brief

Even if the Court considers Appellant's brief, her brief merely reargues the facts of the case, questioning certain aspects of the Appellate Panel's decision affirming the finding that Appellant was discharged for misconduct connected with his employment but failing to support these questions with legal authority. Rule 37(B)(3), SCALCR requires each appellate brief to be

¹ The court file has a copy of the envelope addressed to Appellant and showing correct postage attached to the Certificate of Service.

² The notes to Rule 38 also state that a litigant representing himself is responsible for complying with the Court rules.


“divided into as many parts as there are issues to be argued, and each part shall bear an appropriate caption, followed by a discussion and citation of authority.”³ Appellant’s brief contains no clear presentation of any legal issues. But even if the Court were to construe Appellant’s arguments as giving rise to and discussing a legal issue, she has cited no legal authority to support them but has merely reargued her version of the facts. The Court recognizes that Appellant is *pro se*, but by failing to cite any legal authorities to support her arguments, Appellant has abandoned any issues to which those arguments may have given rise. *See First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting an issue is deemed abandoned where appellant fails to provide arguments or supporting authority for his assertion); *Eaddy v. Smurfit-Stone Container Corp.*, 355 S.C. 154, 164, 584 S.E.2d 390, 396 (Ct. App. 2003) (“[S]hort, conclusory statements made without supporting authority are deemed abandoned on appeal and therefore not preserved for our review.”); *State v. Porter*, 389 S.C. 27, 35, 698 S.E.2d 237, 241 (Ct. App. 2010) (“An issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority.”); *Medical Univ. of South Carolina v. Arnaud*, 360 S.C. 615, 620, 602 S.E.2d 747, 750 (2004) (issues raised by appellant were deemed abandoned because the arguments on those issues were conclusory).

Pursuant to Rule 38, SCALCR, an administrative law judge may dismiss an appeal for failure to comply with the rules of procedure for appeals or an order of the court. Because Appellant’s brief contains no clear legal issues and the written statements filed with this Court present no legal authority suggesting error on the part of DEW, this matter should be dismissed.

ORDER

IT IS THEREFORE ORDERED that this appeal is **DISMISSED**.

AND IT IS SO ORDERED.



Ralph K. Anderson, III
Chief Administrative Law Judge

June 18, 2013
Columbia, South Carolina

³ Rule 37(B)(3), SCALCR is based on Rule 208(b)(1)(D), SCACR.

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, 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, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

E. Harvin Belser Fair

E. Harvin Belser Fair
Judicial Law Clerk

June 18, 2013
Columbia, South Carolina