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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Docket No. 23-ALJ-22-0379-AP
Appellate Case No.: 2024-000251

Bridgette M. Chabot, Appellant,

v.

South Carolina Department
Of Employment and Workforce and
Wells Fargo & Company, Inc., Respondents.

BRIEF OF RESPONDENT WELLS FARGO & COMPANY, INC.

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STATEMENT OF ISSUE ON APPEAL

Were the ALC's findings supported by substantial evidence in affirming the Appellate Panel's finding that the Appellant was discharged for misconduct for using a manager's credentials to approve a transaction without permission, thereby disqualifying her from obtaining Unemployment Insurance ("UI") benefits for twenty (20) weeks and reducing her maximum benefits by twenty (20) times her weekly benefit amount?[1]

STATEMENT OF THE CASE

Appellant filed for unemployment insurance ("UI") benefits on May 9, 2023, with the South Carolina Department of Employment and Workforce (the "Department"). (R. at 5-8.) The Department's claims adjudicator issued a determination on May 30, 2023, holding Appellant was disqualified from receiving benefits for twenty (20) weeks and reducing Appellant's maximum benefits by twenty (20) times her weekly benefit amount based on a finding she was discharged for misconduct connecting with her work for "violating the employers [*sic*] accurate records and disclosures policy." (R. at 22.)

Appellant appealed the claim adjudicator's decision to the Department's Appeal Tribunal ("Tribunal") on June 7, 2023. (R. at 24-31.) The Tribunal held a hearing on June 27, 2023, and affirmed the claim adjudicator's determination by decision on July 7, 2023. (R. at 40-81, 111-13.) Appellant appealed the Tribunal's decision to the Department's Appellate Panel ("Panel") on July 17, 2023. (R. at 114-17.) The Panel affirmed the Tribunal's decision on August 15, 2023. (R. at 1-4, 120-23.) On September 13, 2023, Appellant appealed the Panel's decision to the Administrative Law Court ("ALC"). On February 13, 2023, the ALC issued an order affirming the Panel's

[1] The ALC denied Appellant's motion for a default judgment. Appellant has waived any argument that the ALC erred in denying her default judgment motion filed on January 19, 2024, as she did not raise this issue in either her Notice of Appeal or Initial Brief.

decision to uphold the Tribunal's finding that Appellant was discharged for misconduct, thereby disqualifying her from obtaining UI benefits for twenty (20) weeks and reducing her maximum benefits by twenty (20) times her weekly benefit amount (the "Order").[2]

STANDARD OF REVIEW

"Judicial review of disputes arising from the DEW is governed by the Administrative Procedure Act[.]" *Nucor Corp. v. S.C. Dep't of Emp. & Workforce*, 410 S.C. 507, 514, 765 S.E.2d 588, 562 (2014). Under the APA:

> The review of the administrative law judge's order must be confined to the record. The court may not substitute its judgement for the judgement of the administrative law judge as to the weight of the evidence on questions of fact. The court of appeals may affirm the decision or remand the case for further proceedings; or, it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:
>
> (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. § 1-23-610(C) (Supp. 2023).

[2] On April 4, 2024, this Court sent a deficiency letter to Appellant, noting Appellant's initial brief lacked the required designation of matter for the record on appeal, per Rule 209(a) of the South Carolina Appellate Court Rules. Appellant was directed to rectify this by Monday, April 15, 2024 (since the original deadline fell on a Sunday). However, Appellant filed an untimely designation of matter on Tuesday, April 16, 2024.

The Court of Appeals' "review is limited to determining whether the ALC's findings were supported by substantial evidence or were controlled by an error of law." *Engaging & Guarding Laurens Cnty.'s Env't v. S.C. Dep't of Health & Env't Control*, 407 S.C. 334, 341, 755 S.E.2d 444, 448 (2014). "Substantial evidence is not a mere scintilla of evidence, but evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the agency reached." *Anderson v. Baptist Med. Ctr.*, 343 S.C. 487, 492, 541 S.E.2d 526, 528 (2001). "[T]he possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence." *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981) (quoting *Consolo v. Fed. Mar. Comm'n*, 383 U.S. 607, 620 (1966)).

ARGUMENT

A. Statement of Facts

Appellant was employed with Wells Fargo from January 27, 2020, through May 9, 2023, primarily as a bank teller. (R. at 58, Lines 8-13.) During the relevant time period, Appellant reported to branch manager Tracy McCarthy ("McCarthy"). (R. at 50, Lines 14-15.) Wells Fargo maintains a policy in its handbook requiring branch employees to seek manager approval prior to approving customer transactions over a certain threshold to prevent fraud, falsification of bank records, and/or or other monetary loss to the bank ("Approver Not Present Policy"). (R. at 55, Line 20 – 56, Line 4, 75, Line 26 – 76, Line 1.) Appellant signed an acknowledgement that she received Wells Fargo's employee handbook containing the Approver Not Present Policy on December 13, 2019. (R. at 56, Line 26 – 57, Line 8.)

Though it should not need to be stated, the Approver Not Present Policy explicitly states that falsification of bank records is a terminable offense. (R. at 56, Lines 13-22.) Appellant was authorized to approve customer transactions of up to $100,000 without seeking manager approval.

(R. at 63, Lines 4-7.) On Tuesday, January 31, 2023, a regular customer entered the branch needing assistance with a $300,000 transaction. (R. at 59, Lines 4-17.) Because Appellant's transaction limit was $100,000, Appellant contacted and sought approval from Ariana Nadi ("Nadi") who served as branch manager over a Wells Fargo branch located in North Myrtle Beach. (*Id.*) Nadi gave Appellant approval to conduct this transaction and permission to use her credentials in doing so. (*Id.*)

On Thursday, February 2, 2023, Appellant worked in the branch with another bank teller, Tyler Faizo ("Faizo"). (R. at 59, Line 18 – 61, Line 9.) On this date, Appellant's branch manager McCarthy was away on vacation. (*Id.*) While Appellant and Faizo were alone in the branch, a regular customer entered needing assistance with a $156,000 transaction. (*Id.*) Because their transaction limit was $100,000, neither Appellant nor Faizo were authorized to approve a transaction of this amount. (*Id.*) Upon realizing that he could not complete the transaction as requested, Faizo asked Appellant what he should do and Appellant informed him he "need[ed] to call a manager, try to get somebody on the phone." (*Id.*)

Faizo attempted to reach the North Myrtle Beach branch several times but was unable to reach anyone. (*Id.*) Appellant made no attempt to contact anyone to obtain transaction approval because she "didn't feel it was [her] responsibility to get in touch with anyone because it was Tyler's transaction." (*Id.*) After Faizo informed Appellant he was unable to reach an approver, Appellant went behind McCarthy's desk and retrieved Nadi's employee ID and unilaterally approved the transaction. (R. at 63, Lines 8-12.) Nadi received an email notification that her employee ID was used to complete the transaction and contacted district manager Shannon Murphy ("Murphy") and informed Murphy that her credentials had been used without her authorization. (R. at 62, Lines 7-18.)

Later that same day, Appellant received an email from Murphy asking for an explanation of the transaction. (*Id.*) Upon return from vacation, McCarthy was instructed by Murphy to contact human resources so that an investigation could be opened. (*Id.*) McCarthy and human resources separately interviewed Appellant, Faizo and Nadi. (R. at 51, Line 18 – 52, Line 6.) During her interview with McCarthy, Appellant admitted she engaged in the aforementioned misconduct. (*Id.*) Appellant also informed McCarthy that because Nadi stated she "trusted her judgment" regarding the January 31, 2023, transaction she interpreted that to mean that Nadi had given her permission to unilaterally use her credentials on future transactions without her permission. (*Id.*) Appellant testified she understood the February 2, 2023, transaction was beyond her threshold to approve and that her unilateral decision to use Nadi's credentials without her permission was a "judgment call." (R. at 64, Line 25 – 67, Line 20.) Wells Fargo reviewed surveillance footage that corroborated Wells Fargo's findings that Appellant had violated the Approver Not Present Policy. (R. at 54, Lines 8-11.)

On May 9, 2023, Wells Fargo discharged Appellant for using Nadi's credentials without her permission on February 2, 2023, to override a customer transaction that was over Appellant's limit. (R. at 58, Lines 11-17.)

B. Appellant did not state an exception to the ALC's ruling, warranting dismissal of her appeal.

Appellant does not challenge or take exception with the ALC's Order in her Initial Brief. Appellant's Notice of Appeal states the following: "[t]he Administrative Law Court erred in recognizing the biased narrative driven by the Hearing Officer during trial and that the trial was found in favor of the Employer in a trial that only contained one hearsay employer's witness and her contradictory testimony on surveillance footage that was not entered in to evidence." Appellant, however, fails to state an exception to any action taken or inaction by the ALC in her

Initial Brief. Accordingly, Appellant has waived **any** argument that the ALC's findings were controlled by an error of law. Rule 208(b)(1)(B), SCACR ("[N]o point will be considered which is not set forth in the statement of the issues on appeal"); *see also Fields v. Melrose Ltd. P'ship*, 312 S.C. 102, 106, 439 S.E.2d 283, 285 (Ct. App. 1993) ("An issue raised on appeal but not argued in the brief is deemed abandoned and will not be considered by the appellate court."); *Bentrim v. Bentrim*, 282 S.C. 333, 335, 318 S.E.2d 131, 133 (Ct. App. 1984) (stating the failure of an appellant to raise a question by way of an exception constitutes a waiver); *Shipman v. DuPre*, 222 S.C. 475, 483, 73 S.E.2d 716, 719-20 (1952) (concluding a provision of an order neither excepted to or raised in the brief is not properly before the court on appeal). For this reason alone, Appellant's appeal should be denied and the ALC's decision affirmed.

C. The ALC relied on substantial evidence in affirming the Panel's decision.

Assuming *arguendo* that Appellant had challenged or took exception to the ALC's ruling, the outcome is the same: the findings, inferences, conclusions, and decisions set forth in the ALC's Order are supported by substantial evidence in the record on appeal. "The findings of an administrative agency are presumed correct and will be set aside only if unsupported by substantial evidence." *Rodney v. Michelin Tire Corp.*, 320 S.C. 515, 519, 466 S.E.2d 357, 359 (1996). At the outset of the hearing, Appellant was informed that the issue before the Hearing Officer was whether, under S.C. Code Ann. § 41-35-120(2)(a) (Supp. 2023), Appellant was discharged for misconduct connected with her employment with Wells Fargo warranting disqualification from benefits for twenty (20) weeks, with a corresponding monetary reduction. (R. at 46, Line 15 – 47, Line 7.) "Misconduct" is conduct evincing such willful and wanton disregard of an employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in the carelessness or negligence of such

degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer. (*Id.*)

Appellant's arguments in her Initial Brief that the Panel lacked substantial evidence in upholding the Tribunal's finding that she was discharged for misconduct are unavailing. Appellant acknowledged Wells Fargo has an Approver Not Present Policy requiring branch employees to seek manager approval prior to approving customer transactions over a certain threshold. (R. at 55, Line 20 – 56, Line 4, 75, Line 26 – 76, Line 1.) Although Appellant alleges she was never trained on the Approver Not Present Policy, she also testified that (1) the policy is contained in Wells Fargo's handbook; (2) she was aware the policy could be accessed online; and (3) she never sought clarification regarding the policy. (R. at 66, Line 23 – 67, Line 17.)

Appellant conceded she only had authority to process transactions up to $100,000. (R. at 63, Lines 4-7.) Nevertheless, on February 2, 2023, Appellant went behind McCarthy's desk and retrieved Nadi's employee ID and unilaterally approved a transaction valued at $156,000 for a customer Faizo was assisting. (R. at 63, Lines 8-12.) Appellant attempted to evade responsibility by stating "it was Tyler's customer and Tyler's transaction," and that Nadi told Appellant "she trusts [Appellant's] judgment and [Appellant] could use her numbers at any time." (R. at 59, Lines 21-22, 63, Lines 17 – 65, Line 1.) Appellant contradicts herself by subsequently testifying that on February 2, 2023, she "made a judgment call" when she unilaterally used Nadi's credentials. (*Id.*) Appellant also failed to testify or to submit any record evidence suggesting that Wells Fargo mishandled its investigation or that the surveillance footage reviewed by Wells Fargo did not capture her engaged in the misconduct discussed herein.

In her Initial Brief, Appellant seemingly concedes that she engaged in "misconduct," but argues S.C. Code Ann. § 41-35-120(2)(a) (Supp. 2023) does not apply because "she did not willfully violate or deliberately violate" the Approver Not Present Policy. (App. Br. at 20.) First, Appellant cannot credibly argue that she did not deliberately violate the policy when she freely admits that she was aware of her approval limit and made the unilateral decision to use Nadi's credentials without her permission. Moreover, Appellant ignores the fact that an individual's conduct can meet the statute's definition of misconduct based on a "disregard of standards of behavior which the employer has the right to expect of his employee." S.C. Code Ann. § 41-35-120(2)(a) (Supp. 2023). There is no question that Appellant's unilateral decision to use Nadi's credentials without permission for a transaction over her known threshold constitutes a disregard of Wells Fargo's Approval Not Present Policy. S.C. Code Ann. § 41-27-20 (2021) (Explaining that only those who are "unemployed through no fault of their own" are entitled to UI benefits).

Appellant cites to *Cory Blackwell, Appellant*, No. 17-ALJ-22-0226-AP, 2017 WL 4654724 (Oct. 2, 2017) in support of her position that she did not engage in misconduct as defined by S.C. Code Ann. § 41-35-120(2)(a) (Supp. 2023). (App. Br. at 12, 28-30, 37.) However, the facts of *Cory Blackwell* are wholly inapplicable to the case at bar. In *Cory Blackwell*, the employer terminated the appellant for violating the employer's no call no show policy and was deemed disqualified from receiving unemployment benefits for twenty (20) weeks. The ALC determined the Department lacked substantial evidence to support the conclusion that the appellant was discharged for conduct because the appellant was wrongfully incarcerated at the time of his absences without a way to contact his employer. The ALC defined this as "an extraordinary circumstance that cannot be anticipated."

Unlike the appellant in *Cory Blackwell*, Appellant's falsification of bank records falls squarely within the statutes' definition of "Misconduct" and can hardly be considered an "extraordinary circumstance." Appellant's citation to *Tyrell Davis, Appellant*, No. 12-ALJ-22-0046-AP, 2013 WL 5676951 (Oct. 11, 2013) is also unhelpful to Appellant's position. (App. Br. at 35-36.) In that case, the ALJ found "there . . . was no evidence that the Appellant was involved in the actual transaction" that gave rise to his discharge for misappropriation/theft.

In the present case, Appellant concedes both that she was involved in the transaction that occurred on February 2, 2023, and that she used Nadi's credentials on February 2, 2023, without permission, to override a customer transaction that was over Appellant's limit. Based on the foregoing, substantial evidence supported the ALC's decision and the ALC did not err in affirming the Panel's decision.

D. The ALC did not err in affirming the Panel's decision because the Panel did not abuse its discretion.

"The decision of the Administrative Law Court should not be overturned unless it is unsupported by substantial evidence or controlled by some error of law." *Original Blue Ribbon Taxi Corp. v. S.C. Dept. of Motor Vehicles*, 380 S.C. 600, 604, 670 S.E.2d 674, 676 (Ct. App. 2008). "The ALC judge's order should be affirmed if supported by substantial evidence in the record." *Id.* "Substantial evidence, when considering the record as a whole, would allow reasonable minds to reach the same conclusion as the Administrative Law Court and is more than a scintilla of evidence." *Id.* at 605, 670 S.E.2d at 676.

1. *The Hearing officer was permitted to receive hearsay testimony during the hearing.*

Appellant alleges in her Initial Brief that the Tribunal erred by permitting hearsay testimony during the hearing. (App. Br. at 15-16.) "The rules of procedure are not required to conform to common law or statutory rules of evidence and other technical rules of procedure."

S.C. Code Ann. § 41-35-720. This argument is unpreserved because it was never ruled upon by the Panel or the ALC, and because it is also inaccurate and lacks any legal support.

"An administrative or quasi judicial body", such as the Department, "is allowed a wide latitude of procedure and [is] not restricted to the strict rule[s] of evidence adhered to in a judicial court." *Hallums v. Michelin Tire Corp.*, 308 S.C. 498, 504, 419 S.E.2d 235, 239 (Ct. App. 1992). "Evidence will not be excluded solely because it may be hearsay." S.C. Code Regs. § 47-51(C)(3) (Supp. 2023). This Court has previously held that hearsay testimony may be admissible in matters of this nature if corroborated by facts, circumstances, or other evidence. *Com. & Indus. Inc. Co. v. Second Inj. Fund of S.C.*, No. 2015-UP-103, 2015 WL 918505, at *1 (S.C. Ct. App. Mar. 4, 2015) (permitting hearsay testimony of witness during workers' compensation hearing).

This issue is unpreserved because it was never ruled upon by the Panel or the ALC. *I'on, LLC, v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 726 (2000) ("If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review."). Appellant also failed to make a hearsay objection at the hearing and fails to identify any findings by the Panel which resulted from a hearsay statement.[3]

The Hearing Officer's decision to receive testimony from McCarthy was appropriate because McCarthy was under oath, served as Appellant's supervisor, and was the one who initially contacted human resources to start the investigation after discussing the issue with Murphy. McCarthy also conducted several interviews related to this investigation, including those with

[3] Appellant claims that she raised a hearsay objection during the Tribunal hearing; however, her reference to the transcript indicates that she called a statement made by the employer false when asked if she had any questions for the employer witness. (App. Br. at 16-17.) Appellant failed to raise a proper hearsay objection.

Appellant, Faizo, and Nadi. Even assuming Appellant preserved this issue, which she did not, the ALC did not abuse its discretion in affirming the Department's decision on this basis.

2. *The Hearing Officer bore no legal obligation to ask whether Appellant wanted the Hearing Officer to enter evidence into the record on Appellant's behalf.*

In her Initial Brief, Appellant alleges "The Hearing Officer displays a bias for the Employer by letting Tracy McCarthy testify to footage/surveillance video of the transaction and the Employee Handbook, neither of which were entered in to evidence and not found in the Record on Appeal." (App. Br. at 18.) Appellant's argument regarding this issue is misplaced for several reasons. This argument is unpreserved because it was never ruled upon by the Panel or the ALC, and, it is also inaccurate and lacks any legal support.

As stated above, the Department is not bound by strict adherence to the rules of evidence and was under no obligation to unilaterally enter the surveillance footage in question into evidence. Appellant does not allege in her Initial Brief that she requested that the surveillance footage be entered into evidence, nor could she because no such request was ever made. Instead, Appellant indicated she was unable to have the surveillance footage entered into evidence because she was not in possession of it: "When the Appellant brings to question the footage that is not entered in to evidence/record, 'I would be happy for somebody to subpoena that video and watch it[.]'" (App. Br. at 10-11.) The Hearing Officer explained to Appellant that it was too late for Appellant to have the surveillance footage entered into evidence given the hearing had already commenced. (R. at 61, Lines 10-13.)

Appellant also contends "[t]he Hearing Officer encourages and leads the Employer's attorney by asking him to enter the full Approval policy in to evidence[.]" (App. Br. at 34.) And, that "Ms. Chabot was more likely to object to the entering of new evidence if the request was made by the attorney himself." (*Id.*) The Hearing Officer mentioned entering the Approver Not Present

Policy because at issue during the hearing was whether Appellant engaged in the falsification of bank records on February 2, 2023. When asked if Appellant had any objection, Appellant responded by saying, "No, I do not object. You can definitely have that." (R. at 78, Line 13.)

As a result, any objection Appellant could have raised is not preserved. *State v. Johnson*, 363 S.C. 53, 58, 609 S.E.2d 520, 523 (2005) ("To preserve an issue for review there must be a contemporaneous objection that is ruled upon by the trial court."). Moreover, Appellant's objection would have been without merit, given the centrality of the policy to the issue being reviewed. Even assuming the Appellant preserved this issue, which she did not, the ALC did not abuse its discretion in affirming the Department's decision on this basis.

3. *Appellant was not deprived of procedural due process during the hearing.*

To the extent Appellant's arguments could be construed as contending that she was deprived of procedural due process during the hearing, such claims are baseless. "Any party in an administrative agency proceeding is entitled to certain procedural opportunities of notice and a fair hearing." *Palmetto All., Inc. v. S.C. Pub. Serv. Comm'n*, 282 S.C. 430, 435, 319 S.E.2d 695, 698 (1984) (internal citations omitted). "[P]roof of a denial of due process in an administrative proceeding requires a showing of substantial prejudice." *Id.* Appellant alleges, *inter alia*, that the Hearing Officer (1) was "clearly erroneous and deceitful"; (2) "excessively questioned" her regarding a telephone call she made to Faizo on January 31, 2023; (3) displayed a "change in tone" when questioning Appellant as compared to questioning McCarthy; and (4) interrupted her during her testimony.

In her Initial Brief, Appellant fails to explain how the Hearing Officer acted in an erroneous and deceitful manner or displayed a change in tone when questioning her. While Appellant takes exception to the number of questions she received regarding the February 2, 2023, telephone call

with Faizo, it is a hearing officer's responsibility to examine witnesses and evidence to determine the truth of the matter and the Hearing Officer did so in this case in an unbiased and impartial manner. S.C. Code Regs. 47-51(C)(1) (Supp. 2023) ("All [Tribunal] hearings shall be de novo in nature and conducted in such manner as to ascertain the substantial rights of the parties…. The [Tribunal] shall examine a party and his witnesses[.]").

On review of the transcript, the Tribunal's numerous questions are prompted by apparent inconsistency and a lack of responsiveness on behalf of Appellant. As Appellant has pointed out numerous times, she was the only witness present in the hearing with firsthand testimony of what happened in the bank branch on the day in question. It is only natural that she would receive most of the questioning about what took place at the time of the incident leading to her discharge. Appellant also does not allege the Hearing Officer asked her questions for the purpose of harassing her or persuading her to change her testimony, rendering this point moot.

The transcript reflects the Hearing Officer interrupted Appellant at times, however, this generally occurred when Appellant would get off topic or would attempt to ask McCarthy questions directly. Most importantly, Appellant does not allege any of the aforementioned actions deprived her of a fair hearing or resulted in substantial prejudice. For these reasons, the ALC did not abuse its discretion in affirming the Department's decision on this basis.

4. *The Hearing Officer did not improperly allow Goode to represent Wells Fargo in the Tribunal hearing.*

Appellant's argument that "The Hearing Officer is familiar with the Employer's attorney and allows attorney Jesse Goode to represent Wells Fargo during trial without Mr. Goode filing the appropriate paperwork, a Letter of Representation", is unpreserved because it was never ruled upon by the Panel or the ALC. (App. Br. at 8.) *See I'on* at 422, 526 S.E.2d at 726 (2000).

At the outset of the hearing, the Hearing Officer indicated she had not yet received a letter of representation from Jesse Goode ("Goode"), former counsel for Wells Fargo. (R. at 42, Line 22 – 44, Line 22.) Goode orally provided notice of his representation at the hearing. (R. at 44, Lines 1-10.) The Hearing Officer then made a notation that Wells Fargo was represented by Goode. This is merely a formality and Appellant cites to no rule requiring a pre-hearing letter of representation (there is no such rule). Therefore, the ALC did not abuse its discretion in affirming the Department's decision on this basis.

Generally, Appellant cites to *Christopher Rumph, Appellant*, No. 14-ALJ-22-0425-AP, 2015 WL 658585 (Feb. 11, 2015) for the proposition that the Department abused its discretion and lacked substantial evidence in support of its decision to deny her unemployment benefits. In *Christopher Rumph*, the issue was whether the appellant timely filed his appeal. The Appeal Tribunal and Panel determined the appellant's appeal was untimely, however, the ALC overturned the Department's decision because the determination mailed out to the appellant was not a certified copy and no one for the Department was present to authenticate the document. There are no procedural issues in the present case, rendering *Christopher Rumph* inapplicable.

CONCLUSION

For the foregoing reasons, Appellant's appeal should be denied in its entirety and the decision of the ALC affirmed, as the Department's decision to deny Appellant unemployment benefits was supported by substantial evidence.

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Dated this 22nd day of July, 2024