

SC Court of Appeals

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Stephanie J. Thoele,

Docket No. 26-ALJ-22-0139-AP

Appellant,

V.

South Carolina Department of Employment
and Workforce,

FINAL ORDER AFFIRMING

Respondent.

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed on April 29, 2026, by Stephanie Thoele (Appellant). Appellant seeks judicial review of the final determination issued by the Appellate Panel at the South Carolina Department of Employment and Workforce (Department) in which the Appellate Panel dismissed Appellant's appeal as untimely. This case was assigned to the undersigned on May 8, 2026. The Department filed the Record on Appeal (Record) on June 8, 2026. Thereafter, Appellant filed correspondence on June 18, 2026, asserting that the Record was incomplete. Appellant attached the materials to her correspondence that she asserted were missing. The Department filed a response on June 24, 2026, and attached the materials Appellant referenced in her correspondence. The Department, and the Court, construed Appellant's correspondence as a Motion to Supplement the Record. The Department consented to supplementing the Record with the documents Appellant referenced. The Court granted Appellant's Motion to Supplement the Record on June 26, 2026. Appellant filed her initial brief on June 25, 2026. Appellant filed an amended brief on July 14, 2026. Respondent's brief was filed on July 15, 2026. Subsequently, Appellant filed a reply brief on July 25, 2026. The ALC has jurisdiction to hear this matter pursuant to section 41-35-750 of the South Carolina Code. *See* S.C. Code Ann. § 41-35-750 (2021). After careful review and consideration of the Record on Appeal, parties' briefs, and the applicable law, the Panel's decision is affirmed.



BACKGROUND

On October 8, 2025, Appellant filed a claim for unemployment benefits with the Department. On October 28, 2025, a Department claims adjudicator issued a determination holding Appellant ineligible for UI benefits upon a finding she was discharged for misconduct. Appellant appealed the claims adjudicator's decision to the Department's Appeal Tribunal (Tribunal) on December 12, 2025. On December 29, 2025, the Tribunal mailed its decision to Appellant dismissing Appellant's appeal due to her absence from the hearing. This decision included a notice in bold font stating: **"This will be the final decision of the Agency, unless you file an appeal to the Appellate Panel setting forth in detail the grounds for appeal within ten (10) calendar days, including weekends and holidays, from the mailing date of this decision."**

Appellant appealed the dismissal to the Department's Appellate Panel. Appellant's appeal was postmarked February 19, 2026, forty-two days after the deadline to appeal. On March 5, 2026, the Panel dismissed the appeal as untimely. Appellant appealed, and the Panel remanded the case to the Tribunal for a hearing on the issue of timeliness of Appellant's appeal to the Panel. On April 15, 2026, the Tribunal conducted an evidentiary hearing. On April 29, 2026, the Tribunal issued its decision dismissing Appellant's appeal to the Panel as untimely. On April 29, 2026, Appellant filed this appeal with the ALC challenging the Panel's decision.

ISSUE ON APPEAL

Whether substantial evidence exists in the Record to support the Appellate Panel's decision to dismiss Appellant's appeal as untimely.

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.2d 365, 367 (1984) (finding that the Employment Security Commission, a predecessor of the Department, was an agency within the meaning of the APA). Accordingly, the APA's appellate standard governs appeals from Department decisions. S.C. Code Ann. §§ 1-23-380, -600(D) (Supp. 2025) (amended by Small Business Regulatory Freedom Act, 2026 Session Laws, Act No. 251 (effective June 30, 2026)); *Gibson*, 282 S.C. at 386, 318 S.E.2d at 367. Section 1-23-380(5) provides the standard of review to be utilized by the ALC when reviewing Department decisions. That section states:

(a) 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:

- (i) in violation of constitutional or statutory provisions;
- (ii) in excess of the statutory authority of the agency;
- (iii) made upon unlawful procedure;
- (iv) affected by other error of law;
- (v) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(b) In interpreting a statute or regulation, the court shall not defer to the agency's interpretation of the statute or regulation and instead shall interpret the statute or regulation de novo.

S.C. Code Ann. § 1-23-380(5) (Supp. 2025)(amended by Small Business Regulatory Freedom Act, 2026 Session Laws, Act No. 251 (eff June 30, 2026)).

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).

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). Thus, "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)). 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*, 467 S.E.2d at 917.

DISCUSSION

Section 41-35-680 governs the time frame for filing an appeal to the Panel from a Tribunal decision and provides, in pertinent part that: "Each party promptly must be furnished a copy of the decision, including the reasons for decision. **This must be considered the final decision of the department, unless within ten days after the date of mailing the decision a further appeal is initiated....**" (Emphasis added). In this matter, the Panel found:

The Department properly mailed the Appeal Tribunal decision to the Claimant's address of record on December 29, 2025. The deadline to file an appeal was January 8, 2026. The Claimant was on notice she needed to submit an appeal on January 5, 2026, and directed to the online portal to view documentation. The Claimant was again on notice of the decision on January 15, 2026. She waited to read the decision in its entirety until January 22, 2026. After being aware of the 10-day deadline, the Claimant continued to delay submitting her appeal. The Claimant did not appeal until February 19, 2026, forty-two days after the appeal period expired. The Department has no authority to extend the appeal time limit. The Claimant failed to immediately access the decision upon notice, failed to immediately read the appeal instructions, and failed to act in a diligent manner to preserve her appeal rights. Therefore, the appeal is dismissed as untimely, and the decision is final as a matter of law.

In testimony before the Tribunal, Appellant acknowledges she missed the hearing held on December 29, 2025, because she was not on notice of the hearing. Appellant indicated that she spoke to a Department representative on January 5, 2026. The Department representative's notes in the Department's system indicate that during the call, Appellant acknowledged missing the Tribunal hearing on December 29, 2025, and the representative instructed Appellant to file another appeal. In her brief, the Appellant asserts the representative instructed her to contact the benefits department. However, the Department's notes from Appellant's calls with representatives do not support her assertions. Appellant's deadline to appeal was January 8, 2026. Appellant filed her appeal on February 19, 2026, forty-two days after the appeal period expired. Appellant testified that the untimely filing was due to several personal issues that were occurring at that time. While

this court is sympathetic to Appellant's circumstances, it has no authority to extend the appeal time limit in this matter. *See Hill v. S.C. Dep't of Health & Envtl. Control*, 389 S.C. 1, 21, 698 S.E.2d 612, 623 (2010) (citation omitted) (finding that "[t]he service of a notice of appeal is a jurisdictional requirement, and the time for service may not be extended by this Court."). South Carolina courts have consistently held that "timely service of an appeal is a jurisdictional requirement that cannot be waived." *Olson v. Faculty House of Carolina, Inc.*, 344 S.C. 194, 214, 544 S.E.2d 38, 48 (Ct. App. 2001).

Section 41-35-680 clearly and unambiguously states that the decision "must be considered the final decision of the department, unless within ten days after the date of mailing the decision a further appeal is initiated...." In this instance, the record is clear, and it is undisputed that the Department properly mailed the Appeal Tribunal decision to the Appellant's address of record on December 29, 2025. The deadline to file an appeal was January 8, 2026. The Claimant was on notice she needed to submit an appeal on January 5, 2026, and directed to the online portal to view documentation. Appellant was again on notice of the decision on January 15, 2026. She waited to read the decision in its entirety until January 22, 2026.¹ After being aware of the ten-day deadline, the Appellant continued to delay submitting her appeal. Appellant did not appeal until February 19, 2026, forty-two days after the appeal period expired. Because of Appellant's failure to file the appeal within the statutory timeframe, the Panel's dismissal of the appeal was proper.

CONCLUSION

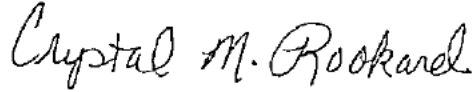
Based upon the foregoing, the Court finds that the substantial evidence in the record supports the Panel's final decision, and the decision must be affirmed. *See Friends of Earth*, 387 S.C. at 366, 692 S.E.2d at 913 (explaining that substantial evidence is present when reasonable minds can reach the same conclusions as the agency when the record, as a whole, is considered). The Court acknowledges Appellant is *pro se*, however, "[a] pro se litigant who knowingly elects to represent [herself] assumes full responsibility for complying with substantive and procedural

¹ The Record on Appeal reflects Appellant contacted the Department on January 5, 2026. At that time, Appellant was notified she could view documentation on her portal. On January 15, 2026, Appellant attended a worker's compensation deposition and was shown the decision. The Department asserts Appellant "understood she was denied but did not obtain the physical decision or read it in its entirety." Further, the Department indicates Appellant "read the decision in its entirety on January 22, 2026 including the appeal rights." It is the Department's contention that the Appellant was on notice the appeal period had expired, did not draft her appeal until February 9, 2026 and mailed it on February 19, 2026 because she did not have a printer and was dealing with the loss of father.

requirements of the law." *See State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003). While this Court recognizes the harsh result of this decision, it is constrained by the rules and legal precedent in this State. *See McLain v. Ingram*, 314 S.C. 359, 444 S.E.2d 512 (1994).

ORDER

IT IS THEREFORE ORDERED that the Department's determination is **AFFIRMED**.
AND IT IS SO ORDERED.

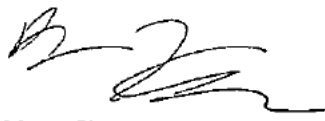


The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

September 14, 2026
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Ryan T. Kowalski, 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).



Ryan T. Kowalski
Staff Attorney

September 14, 2026
Columbia, South Carolina

RECEIVED
OCT 01 2026
SC Court of Appeals