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The State of South Carolina
In the Court of Appeals

SC Court of Appeals

Appeal from the Administrative Law Court (Richland
County) Ralph King Anderson III, Administrative Law
Judge Docket No. 15-ALJ-22-0138-AP

Diana Jordan Appellant

v

South Carolina Department of Employment and Workforce Respondent

NOTICE OF APPEAL

Diana Jordan appeals the decision of the Honorable
Ralph King Anderson III dated 9/13/15. Appellant received
a copy of the decision on 9/14/15.

History

- On 3/15/15 Appellant appealed the decision of the Respondent's
Appellate Panel which had affirmed the Appeal Tribunal's
finding that Appellant had engaged in fraud and thus been
ineligible to receive the unemployment insurance (UI) benefits
she received.
- On 4/16/15 Respondent filed Motion To Stay Appeal Proceedings
Pending Criminal Prosecution.
- On 6/18/15 Appellant filed a timely but deficient Brief.
- On 6/16/15 Respondent filed a Motion To Dismiss with Prejudice.
- On 7/16/15 Appellant filed a Motion to Continue which was four
pages long specifically detailing Appellant's ability to use the
contents, or that which was required to be contained in the
record on appeal to prove Appellant had not engaged in fraud
and therefore had not been overpaid UI benefits.
- On 7/16/15 Appellant received an Order of Dismissal.
- On 7/13/15 pro se Appellant filed a Motion To Retear the case

using oral arguments.

- Respondent never filed objection to the case being reheard.
- On 9/11/15 an Order Denying Motion to Rethear was issued.

Discussion

- The issue on appeal is whether Appellant was overpaid ui benefits based on fraud.
- In the Discussion section of Judge Anderson's Order Denying Motion to Rethear he quotes ALC Rule 38: In all cases involving pro se litigants or those without substantial knowledge and experience in administrative matters, the administrative law judge may make reasonable efforts to assure fairness.
- The four page letter submitted on 7/16/15, PRIOR to the Order of Dismissal issued on 7/13/15 clearly demonstrated to the judge Appellant's ability to use the existing record on appeal to prove pro se Appellant was not overpaid ui benefits based on fraud.
- Court should have held oral arguments initially.
- In the Discussion section of Judge Anderson's Order Denying Motion to Rethear he states "According to ALC Rule 39, an administrative law judge will NOT have oral arguments in appeals from DEW unless the proceeding involves a novel issue or question of exceptional importance."
- According to the Administrative Court Laws mailed to me on 3/11/15 by Susan C. Dickerson, Assistant Clerk, ALC Rule 39 states oral argument will ordinarily not be ordered by the Administrative Law Judge in appeals from the Office of Motor Vehicle Hearings unless the proceeding involves a novel issue or question of exceptional importance.
- Since Appellant's appeal is from the South Carolina Department of Employment and Workforce, Appellant reasonably expected oral arguments initially.
- Judge Anderson never dealt with the issue on appeal.

Conclusion

Pro se Appellant Diana Jordan filed a timely but deficient Brief, followed up by a four page letter demonstrating her ability to use the record on appeal to prove she was not overpaid ui benefits based on fraud. Respondent DEW never filed a Motion objecting to the case being Retheard, and Judge Anderson incorrectly applied ALC rule 39 for the initial hearing because of his confusion between the DEW and the Office of Motor Vehicle. After weighing the appropriate factors, this court should conclude that Diana Jordan has shown support for allowing the appeal.

September 9, 2015

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