

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Administrative Law Court

Shirley C. Robinson, Administrative Law Court Judge

Docket No. 18-ALJ-22-0211-AP

Cynthia G. AL-Daqqaq,

Appellant,

V.

South Carolina Department of Employment
and Workforce & IQOR HOLDINGS US, LLC

Respondent.

BRIEF OF APPELLANT

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NOV 19 2018

SC Court of Appeals

Cynthia G. AL-Daqqaq
5933 Natures Drive
Las Vegas, NV 89122
(702)-908-1195
Appellant

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appellant Case No. 2018-001685

November 13, 2018

Statement of Issues on Review.

1. The first issue I am requesting a review on, is DEW contention that I missed the June 7, 2018 deadline for submitting an Appeal. I did not receive the Final Appeal, paperwork until May 25, 2018.
2. DEW has sent my mail to the incorrect address, on three occasions that I am aware of. I am including proof of that for your review.
3. Admission of New Evidence, which will prove, why I left my former Employment at Iqor, North Charleston on November 18, 2017:

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Statement of the Case.

On May 25, 2018, I received a letter from DEW- Appellant Panel decision stating Appellant voluntarily left employment, without good cause. Appellant filed a notice of Appeal, on June 18, 2018, to the Administrative Law Court. The case was assigned to Judge Shirley C. Robinson on June 21, 2018. On July 6, 2018, DEW filed a request for dismissal of the case pursuant to S. C. Ann 41-35-750 and SCALC Rule 33. On July 24, 2018, the ALC dismissed Appellant's appeal. On August 2, 2018, Appellant filed a motion requesting that the ALC, reconsider its decision to dismiss this appeal. DEW filed in opposition to Appellant's motion on August 13, 2018. The ALC stated they have no jurisdiction to address the appeal. See *Elam v. S.C. Dept. of Transp.*, 361 S.C. 9, 602 S.E. 2d 772 (2004). ("If a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no Authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice"). The ALC denied the Appellant's request for reconsideration.

Appellant contends that DEW, has sent mail, to the incorrect address on at least three separate occasions. Please see the Proof of Service, from letter dated on July 6, 2018, and Proof of Service letter, dated August 13, 2018. Appellant's address is listed as 5966 Natures Drive - Las Vegas, NV 89122. The correct address is 5933 Natures Drive - Las Vegas, NV 89122. The address of 5966 Natures Drive, does not exist. Appellant contends that DEW, sent letter dated May 8, 2018, which is the basis for their case, of Appellant missing the 30 days for Appeal, to the incorrect address, as well. Appellant did not receive this letter until May 25, 2018. The Appeal deadline was June 7, 2018, per DEW. Appellant has also included an envelope, from DEW showing that Appellant's mail was sent to wrong address. This envelope has a U.S. Post Office yellow sticker, stating the address is incorrect. Please see this as well, as submitted to the Court for your review. Also, please observe the dates, for postage stamp on letter dated July 6, 2018, as being July 19, 2018 (envelope). This shows a pattern of DEW taking 13 days, between the date letter was typed July 6, 2018 and July 19, 2018, the date

envelope was stamped by U.S. Post Office. Also, for the letter dated August 13, 2018, the envelope is stamped August 20, 2018, by the U.S. Post Office. That shows 7 days between when the letter was typed and actually mailed. The only thing Appellant request from the Court, is for all the evidence submitted to be considered and analyzed. Appellant request equal rights, as DEW has been given to deny Appellant's Unemployment Benefits.

The Appellant request for new evidence to be allowed. This evidence will prove to the Court and to DEW, the reason Appellant left employment at Iqor, North Charleston, S.C. which is in question. This is a very crucial part of this case.

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Appellant Case No. 2018-001685

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Statement of Review.

1. **Clearly erroneous.** Concrete Pipe and Prods v. Construction Laborers Pension Trust - 508 U.S. 602, 623 (1993)
Inwood Laboratories, Inc. - 456 U.S. 844, 855 (1982)

Appellant mail was sent to the incorrect address.

“ A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is Entitled to judicial review pursuant to this article and Article 1. “ S.C. Code Ann. 1-23-380 (Supp. 2013). “ The review must be conducted by the court and must be confined to the record. “ 1-23-380 (4). “ The Court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. “ 1-23-380 (5). “ 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 ... clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record...” S.C. Ann. 1-23-610 (B) (Supp. 2013).

2. **Substantial Evidence.** Richardson v. Perales, 402 U.S. 389, 401 (1971)

This is the relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

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Appellate Case No. 2018-001685

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E. Argument.

DEW's contention that Appellate missed deadline of 30 day notice to Appeal, Final Decision by June 7, 2018.

Appellant contends that final decision was not received until May 25, 2018, from DEW. From the dates of May 25, 2018 and June 7, 2018 deadline, did not give Appellant sufficient time to address the Appeal. Appellate further argues that DEW was in error, when they submitted the date of letter mailing to be May 8, 2018. Appellant did not receive this letter until May 25, 2018. Appellant has submitted evidence showing the Proof of Service date, for the letter July 6, 2018 mailing and the envelope date postage stamp, which reads July 19, 2018. Appellant has also submitted evidence showing the second Proof of Service, as mailing on August 13, 2018. The postage stamp for that envelope reads August 20, 2018. Surely, it would not take 13 days for DEW, to actually mail letter of July 6, 2018. These discrepancies, should give the Court some insight into why, Appellant is of the belief of improper treatment, from DEW. These examples should show a preponderance of evidence, of where Appellant has been mistreated by law.

DEW sent Appellant address to the incorrect address on three (3) known occasions.

Appellant has submitted evidence to prove the difference in discrepancy of mailing address, as well. The Proof Of Service letters dated July 6, 2018 and August 13, 2018, show Appellant address as 5966 Natures Drive Las Vegas, NV 89122. The correct address for Appellant is 5933 Natures Drive - Las Vegas, NV 89122. Appellate has enclosed an envelope, proving that DEW, sent Appellant mail to 5966 Natures Drive address and envelope was sent back to DEW, by the U.S. Post Office. This envelope has a yellow return sticker from the U.S. Post Office attached. Appellant contends that if deadlines were missed, it is due to the incorrect address situation. Appellant should not be held to a higher standard than DEW holds for themselves.

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E. Argument Continued.

The third and final point Appellant request, is that new evidence be added to the record.

Appellant has possession of new evidence of Affidavits, signed and Notarized by friends and family members. Appellate request that this New evidence be allowed for submission into the record on Appeal.

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F. Conclusion.

In conclusion, Appellate request that Unemployment Benefits be approved, barring any prejudice.