

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

S. PHILLIP LENSKI, ADMINISTRATIVE LAW JUDGE

Docket No. 2021-000490

Greg German..... Appellant

v.

South Carolina Department of
Employment and Workforce..... Respondent

THE RECORD ON APPEAL

Greg J. German
306 21st Avenue South #5D
Myrtle Beach, South Carolina 29577
843-283-1892
thetortmaster@yahoo.com
Appellant *pro se*

Other Counsel of Record:

Mr. Paul Famolari
Office of General Counsel-SCDEW
PO Box 8597
Columbia, SC 29202
Attorney for Respondent SCDEW
legal@dew.sc.gov

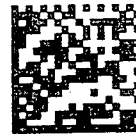
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South Carolina
Department of Employment and Workforce



13930326

11/17/2020

GREG J GERMAN
306 21st Ave S Apt 5d
Myrtle Beach SC 29577-4628

NOTICE OF MAILING OF APPELLATE PANEL DECISION

Attached is a copy of the final decision of SCDEW in this case. Any further appeal is to the South Carolina Administrative Law Court. To obtain judicial review of this decision, you must comply with the requirements of S.C. Code Ann. § 41-35-750 and the Rules of Procedure of the Administrative Law Court. The Court may require a filing fee.

The law requires that a Petition for Judicial Review must be filed with the Court and served on all parties and SCDEW within thirty (30) days from the mailing date of SCDEW's final decision **(see the mailing date above)**.

The address of the Administrative Law Court is:

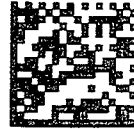
**S.C. Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia SC 29201**

Service of the Petition on SCDEW must be addressed and mailed to:

**Office of General Counsel
S.C. Department of Employment and Workforce
Post Office Box 8597
Columbia SC 29202**

SCDEW cannot advise a party on any legal matter. For legal advice or assistance in filing an appeal to the Administrative Law Court, you should consult an attorney licensed to practice law in South Carolina.

South Carolina
Department of Employment and Workforce



13930326

Office of Appellate Panel

GREG J GERMAN)
306 21ST AVE S APT 5D)
MYRTLE BEACH SC 29577)

Claimant SSN: XXX-XX-XXXX

Claimant ID: XXXXXXXX

APPELLATE PANEL
DECISION

Appellant: GREG J GERMAN

Appeal Number: 20-HA-001371

Appellant: Claimant

The Claimant filed for unemployment benefits on March 30, 2020. Six claim adjudicator's determinations were mailed on July 23, 2020, holding the Claimant ineligible for benefits, effective March 29, 2020, through May 9, 2020, upon finding the Claimant failed to file his weekly claims in a timely manner. The Claimant appealed the determinations to the Appeal Tribunal. After an evidentiary hearing, the Appeal Tribunal affirmed the determinations. The Claimant appealed the Appeal Tribunal decision on October 21, 2020 to the Appellate Panel.

The Appellate Panel issued its decision upon review of the record on appeal. We affirm the Appeal Tribunal decision. The Claimant is ineligible for benefits effective March 29, 2020, through May 9, 2020, upon finding the Claimant failed to file weekly claims in a timely manner.

BACKGROUND

The Claimant filed a claim for benefits on March 30, 2020. The Department provided the Claimant instructions to file each week for benefits when he filed his initial claim. The Claimant maintains he was unaware he needed to file claims for benefits in order to receive benefits. He believed that because he was not required to conduct a weekly work search on the South Carolina Works Online Service (SCWOS), he did not need to do anything to draw benefits after he filed the initial application. He contended that he called the Department on multiple occasions after April 4, 2020, inquiring about his benefits; however, a review of Department records shows no notes regarding attempted contacts during the period cited by the Claimant. He filed weekly claims for the six weeks in question on June 19, 2020.

South Carolina
Department of Employment and Workforce

FINDINGS

S.C. Code Ann. §41-35-110 provides that an individual must file timely weekly claims in order to be eligible for benefits for each week claimed.

S.C. Code Reg. 47-21 (E) provides that a claim is effective on the Sunday prior to the date it was filed. Regulation 47-32 provides that a claim is timely if received within fourteen calendar days of the claim week ending date.

The record establishes the Claimant failed to file a timely claim for benefits for the six claim weeks from March 29, 2020, through May 9, 2020. The greater weight of the credible evidence shows the Claimant did not attempt to file any weekly certifications until more than a month after the Claimant initially filed his claim for benefits. The Claimant did not file a claim for the weeks in question as required by law. Therefore, we find the Claimant ineligible for benefits effective March 29, 2020, through May 9, 2020.

DECISION

The Appeal Tribunal decision mailed October 15, 2020, is affirmed. The Claimant is ineligible for benefits effective March 29, 2020, through May 9, 2020, upon finding the Claimant failed to file weekly claims in a timely manner.

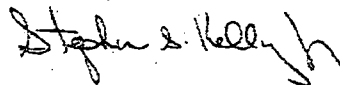
**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE
APPELLATE PANEL**



E.B. AYERS



TIM DANGERFIELD



STEPHEN S. KELLY, JR.

Date Mailed: 11/17/2020

Personal Information

Claimant ID: 
Date of Birth: 
First Name: GREG
Last Name: GERMAN
Middle Initial: J
Suffix:
Other Last Name Used (1):
Other Last Name Used (2):
Other Last Name Used (3):
Gender: Male
Mothers Maiden Name:

Address Information

Country: USA
Mailing Address, if different from residential: 306 21ST AVE S APT 5D
Mailing Address State: South Carolina
Residential Address Country: USA
Residential Address: 306 21ST AVE S APT 5D
Residential Address State: South Carolina
Closest Employment Services Office: Coastal/Conway
Mailing Address City: Myrtle Beach
Mailing Address Zip: 29577
Residential Address City: Myrtle Beach
Residential Address Zip: 29577
Commuter:

Contact Information

Primary Phone: 843-283-1892 Ext:
Cell Phone: 843-283-1892
E-mail Address: theformaster@yahoo.com
I wish to receive text alerts on important information on my unemployment claim: Yes
Alternate Phone: Ext:
Fax Number:
Preferred Contact Method: E-mail

Demographic Information

Education Level: 21- DOCTORATE DEGREE
Do you need an interpreter: No
Race: Choose Not to Answer
Ethnicity: Choose Not to Answer
Preferred Language: English
Disabled: Choose Not to Answer
Veteran: Yes
U.S. Citizen: Yes
Alien Registration Number:

Eligibility

Indicate from what location you are filing your claim: Home
Have you applied for or are you receiving benefits from any state or federal programs?: No

Employment Questions

Has all of your employment been in another state since 09/30/2018: No
Has any of your employment been in another state since 09/30/2018: No
Have you served in the Military since 09/30/2018: No
Are you currently in the State of SC:
Have you been employed as a civilian by the Federal Government since 03/30/2018: No
Have you worked for a school or educational institution since 09/30/2018: No

Have you worked for a professional athletics organization since 09/30/2018? No

Are you a Longshoreman who has been assigned work by a Longshoreman union since 09/30/2018? No

Are you an elected official? No

Employability Questions

Are you currently self-employed or do you earn income on a commission basis? No

Do you have plans to become self-employed or earn income on a commission basis? No

Are you currently able to look for, accept, and perform full time work for which you have training or experience? Yes

Are you currently enrolled in school or in training? No

Are you available only for part-time work? No

Have you filed a claim in the past year for worker's compensation due to a work related injury? No

Employers - Regular

Employer Name	Address	Dates of Employment	Type of Employment
RED ROOF INNS INC. DBARED ROOF INNS INC	PO BOX 280 NORTH PLATTE 69103	01/25/2018-03/28/2020	Full Time

Separation - Regular

Employer Name: RED ROOF INNS INC. DBARED ROOF INNS INC

Reason employment ended: Layoff due to Coronavirus

If Quit or Discharge select the reason why:

Will you be returning to work for this employer? Yes

If yes, please enter your return to work date: 05/01/2020

State where work was performed: South Carolina

City where work was performed: Myrtle Beach

Primary Occupation with this employer:

Are you an owner, corporate officer, or stakeholder of this employer? No

What were your total earnings with this employer from: 13855.26

Other Separation

Are you currently receiving workers' compensation workers' compensation for a job related injury or illness? No

Are you or will you receive pension or retirement pay (other than Social Security)? No

Are you or will you receive vacation pay, severance pay, military accrued leave pay or other separation pay? No

If you are eligible to receive benefits, would you like Federal Income Tax withheld from your benefits? No

If you are eligible to receive benefits, would you like State Income Tax withheld from your benefits? No

Do you have a definite return to work date or will start a new job for an employer you have not told us about? Yes

If yes, what is the name of the employer?

If yes, what is your return to work or start date? 05/01/2020

Preferred Payment Method: Debit Card

Work Search

What is your lowest Rate of Pay you will accept for the type of work you are seeking? \$12.88 per Hour

Are tool, licenses, or permits required for the work you are seeking? No

If yes, do you have the required tools, licenses, or permits to perform the work you are seeking?

Military/Veteran Information

Are you a veteran? Yes

Is your spouse a veteran? No

Is your spouse a veteran killed in active duty? No

Is your spouse a deceased veteran who had a total disability? No

Is your spouse a service member who is a MIA or POW? No

Is your spouse a veteran who had a total (100%) disability rating from the VA?

Were you awarded any campaign badges, ribbons or decorations? Yes

If yes, please mention Army Commendation Medal Army Achievement Medal

Have you worked on a farm? No

Did you earn at least half of your last 12 months income on a farm?

Were you employed all year on a farm?

Did you travel to work?

Did you work at least 25 days on a farm?

Have you worked in a food processing plant? No

Did you earn at least half of your last 12 months income in food processing?

Were you employed all year in food processing?

Did you travel to work?

Did you work at least 25 days in food processing?

Do you have a valid SC driver's license? Yes

Please provide your driver's license number as it appears on your driver's license

Please provide your weight as it appears on your driver's license

Driver's license class D Regular Operator License

Commercial driver's license classes None

Commercial driver's license restrictions None

Job Eligibility Counties

Select up to 6 counties where you are willing to work.

HORRY

Job Eligibility Experience

Are you willing to look for other types of work?

Primary Choice

Kinds of Jobs Seeking / ONET?

Hotel, Motel, and Resort Desk Clerks

Years of experience:

02

Years of Training

Secondary Choice

Kinds of Jobs Seeking / ONET?

Law Clerks

Years of experience:

02

Years of Training

Last Job Information

How much did you earn on your last job? 12.88

Unit of pay: Hour

Travel Miles: 0-5

Location

Are you willing to relocate? No

Are you willing to travel at least the same distance as you last traveled to your last job? Yes

Your transportation methods: Bicycle

Availability Start Date Immediately? Yes

You must actively search for suitable work each week that you file a weekly certification for unemployment insurance benefits by performing at least two (2) job searches through the South Carolina Works Online System (SCWOS) so that the search can be electronically verified. Suitable work includes any trade, occupation, or business in which you are qualified based upon your training and experience, and which pays at least 90% of your previous salary from the most recent bona fide employer during the first eight paid weeks of unemployment and 75% of your previous salary after eight paid weeks of unemployment. Are you willing to accept this requirement yes or no? Yes

Does a lack of childcare or dependent care affect your ability to work? No

Job And Availability Schedule

Available Time (Start Time - End Time)

23:00 - 7:00

Available Days

Monday

Tuesday

Wednesday

Thursday

Friday

Are you willing to work the same hours/shifts/days you worked on your last job? Yes

Date Completed: Mar 30, 2020 2:40 AM



South Carolina
Department of Employment and Workforce



5756426

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Claim ID: 1038094
Claimant ID: [REDACTED]
SSN: xxx-xx-xxxx
SC Works Center: Coastal/Conway
Effective Date: 03/29/2020
Date Filed: 03/30/2020
Date Prepared: 03/31/2020

Initial Determination of Status as an Insured Worker

***BENEFITS YOU MAY BE ELIGIBLE FOR**

WEEKLY BENEFIT AMOUNT \$286.00
MAXIMUM TOTAL BENEFITS \$5,720.00
BENEFIT YEAR ENDS 03/27/2021

SEE ATTACHED FOR CLAIMANT INFORMATION

EMPLOYMENT RECORD		STANDARD BASE PERIOD QUARTERLY EARNINGS			
EMPLOYER	ACCOUNT NO.	*QTR / YEAR	*QTR / YEAR	*QTR / YEAR	*QTR / YEAR
RED ROOF INNS INC		4/2018	1/2019	2/2019	3/2019
		\$7,137.24	\$6,088.55	\$7,453.78	\$6,171.93
STANDARD BASE QUARTER TOTAL		\$7,137.24	\$6,088.55	\$7,453.78	\$6,171.93

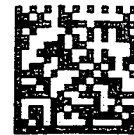
NOTE: The weekly benefit amount on this form reflects your GROSS PAYMENT EACH WEEK BEFORE ANY DEDUCTIONS are made. Possible deductions to this amount include, but are not limited to, tax withholding, pension, child support, offset of overpayment, and part-time earnings. ALSO, YOUR FINAL PAYMENT MAY BE LESS THAN THE FULL WEEKLY BENEFIT AMOUNT BASED ON THE BALANCE REMAINING IN YOUR ACCOUNT.

*QTR.

1. JAN. FEB. MAR 3. JULY, AUG. SEPT
2. APR. MAY. JUNE 4. OCT. NOV. DEC



South Carolina
Department of Employment and Workforce



5756426

INFORMATION FOR CLAIMANT

This is a monetary determination of your claim for benefits based on wages paid during your Base Period. This determination shows your Base Period Employment Record. It lists your covered employer(s) that paid you wages, their account number, and the wages paid to you by quarter and year during the base period of your claim. The total amount of wages paid to you by quarter in the base period is shown beside Base Quarter Total. This determination covers only the monetary portion of your claim. Another determination will be issued that states if you are eligible to receive benefits. It will be based on the reason for separation from your most recent bona fide employer.

Under Benefits You May Be Eligible For, your Weekly Benefit Amount, Maximum Benefit Amount, and the date your Benefit Year Ends are shown.

BASE PERIOD: The first four of the last five completed calendar quarters prior to the effective date of your initial claim. If you earned wages in covered employment not shown on this form, you may request a redetermination online or by contacting a claims representative by calling 1-866-831-1724.

If the monetary determination was invalid using base period wages, this determination may show wages and employment from an Alternate Base Period.

ALTERNATE BASE PERIOD: The first four most recently completed calendar quarters prior to the effective date of your initial claim. If you earned wages in covered employment not shown on the face of this form, contact the claims representative by calling 1-866-831-1724.

HIGH QUARTER: The quarter in your Base Period during which wages paid to you for insured were highest.

WEEKLY BENEFIT AMOUNT: The amount of benefits you may receive weekly, if unemployed and otherwise eligible, shall be one-half of the average weekly wage in the high quarter of your base period but shall not be less than \$42.00 nor greater than the maximum weekly benefit amount as determined by the Department or before June 30 of each year for benefit years on or after July 1 of such current calendar year, and prior to July 1 of the succeeding calendar year as provided in Section 41 - 35 - 40 of the Law.

MAXIMUM POTENTIAL BENEFITS: The greatest amount of compensation that you may receive during your benefit year.

BENEFIT YEAR: The one (1) year period following the effective date at your initial Claim. To establish a Benefit Year in accordance with the provisions of the Law, you must meet the following wage requirements:

1. You were paid at least \$1,092.00 for issued work during the high quarter of your alternate base period;
2. You were paid at least \$4,455.00 for issued work during your base period and
3. The total of your base period wages for issued work equal or exceeded one and one-half times the total of your high quarter wages.

AVERAGE WEEKLY WAGE: Shall be determined by dividing the high quarter wage earnings by 13 weeks.

REDETERMINATION RIGHTS: You have the right to request a correction if you do not agree that this determination is correct. Your request for redetermination may be made online by logging into your My Benefits portal account or by contacting a claims representative by phone by dialing 1-866-831-1724. No change can be made on this determination after one year from the date of this notice.

IF YOU NEED TO UPDATE YOUR ADDRESS OR TELEPHONE NUMBER, PLEASE VISIT dew.sc.gov.

EXAMPLE OF COMPUTATION OF BENEFITS

Maximum Potential Benefits:

Your maximum total benefit amount for this benefit year is the lesser of

Higher Quarter Wages	\$	1092.00
Base Period Wages	\$	4455.00
Average Weekly Wage	$\$1092.00 \text{ divided by } 13 =$	\$ 84.00
Weekly Benefit Amount	$\$84.00 \text{ divided by } 2 =$	\$ 42.00

1. Twenty (20) times your Weekly Benefit Amount, or
2. One-third (1/3) of your total Base Period Wages as shown on this determination.
 $(1) 20 \times \$42.00 = \$840.00$ $(2) 1/3 \text{ of } \$4455.00 = \$1485.00$
Maximum Benefits would be \$ since that amount is less than \$1485.00



South Carolina
Department of Employment and Workforce



5683741

Claimant Name: GREG J GERMAN

Employer Name: RED ROOF INNS INC

Claimant Party ID: [REDACTED]

Issue ID: 4592825

User ID: I

Fact Finding Questions

Responses

I certify that the information I am submitting to the South Carolina Department of Employment and Workforce is true and accurate to the best of my knowledge. I understand any individual found to have submitted fraudulent information to obtain Unemployment Benefits may be subject to penalties of law - up to and including FELONY prosecution. I certify, understand and acknowledge

Yes

IMPORTANT INSTRUCTIONS:

Please be prepared to provide the following information as part of the fact finding. This information and/or documentation will be used to make a determination for benefits on your claim. -Approximate dates of incidents and/or situations relating to the separation. -The name and job title of those individuals involved in the separation incident. -The name and job title of those individuals that you may have discussed the separation with. -Dates of employment, work schedule, and/or rate of pay. -Documentation relating to the separation. This could be doctor's notes, settlement agreements, hire agreements, PCS orders, etc. -You will be asked to provide information regarding your separation from RED ROOF INNS INC. You indicated that your separation from RED ROOF INNS

Yes

South Carolina
Department of Employment and Workforce

INC was due to lack of work. Is this
the correct separation reason?

What date was your first day of
work?

01/25/2018

What date was your last day of
work?

03/27/2020

What date were you separated?

03/28/2020

Who separated you? Name:

David Helman

Job Title:

Front Desk

Why were you separated?

I was laid off due to lack of
work - slowdown in business

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: March 30, 2020 02:49 AM



South Carolina
Department of Employment and Workforce



7136129

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 04/14/2020
Mailing Date: 04/15/2020
Effective Date: 03/29/2020
Type: LO01
Category: Lay Off (SC)
Benefit Year Ends: 03/27/2021
RE: RED ROOF INNS
INC
Claimant ID: [REDACTED]
SSN: [REDACTED]
WBA: \$286.00
RBA: \$0.00

DECISION

You are eligible for benefits from 03/29/2020, if otherwise eligible.

DETERMINATION REASON

You are on lay off from your most recent bona fide employer due to lack of work and no disqualification is imposed on the separation under the South Carolina code.

CONCLUSION

You have met the eligibility requirements of the law, benefits are allowed.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 04/27/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

SECTION 41-35-120(2)(b) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for cause, other than misconduct, connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than nineteen weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

SECTION 41-35-120(3) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for illegal drug use. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(4) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for gross misconduct. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.

Re: Claimant ID # [REDACTED]

Greg German
[REDACTED]

I was laid off from Red Roof Inn in Myrtle Beach on March 29, 2020. I was brought back to work on May 17, 2020.

That is 7 weeks.

I have been paid unemployment for 1 week.

This relates to certifying benefits.

I did not certify weekly, as I did not know it was required. I saw that it took 21 days from "Decision Date" until I might get paid unemployment, so I waited for that date before I started to ask questions. When I tried to call, the DEW phone line just clicked me off.

Finally, I was able to get through to a live person about three weeks ago. That person did not say there was anything wrong with my claim. This is my history:

Confirmation # Date Business Event

6008457 05/28/2020 File Weekly Claim

5213182 05/15/2020 Reactivate Claim – Reopen

2803502 03/30/2020 Initial Claim

Because I saw on the website that I did not have to look for work during the quarantine, I did not. Also, I did not know that a weekly certification was necessary. I have never filed for unemployment in my life.

I finally talked to another live person on 6/9/20. I was on hold for 5 hours and 3 minutes. During that time, I probably talked to someone a total of 20 minutes. The last person I talked to said she had my information and would certify my six missing weeks.

That appears not to have happened.

I did not receive any work compensation, paid leave, alimony, or money of any kind during the time I was laid off. Please send the payment for the 6 weeks that I missed out on.

Thank you,

Greg German

306 21st Avenue S. #5D

Myrtle Beach, SC 29577

(843) 283-1892

SUPPLEMENT

Re: Claimant ID # [REDACTED]

Greg German
[REDACTED]

Additionally, the website indicated that if there was a problem with my claim it would show up. I never saw a problem except it said "laid off" or something like that in the "problem" area.

The website also indicated that the "laid off" was not a problem, and that it would be handled by staff.

I repeatedly attempted to call the DEW phone line, and it gave me a long message, and when I entered my pin number, it did not give me any indication there was a problem. But the phone was never answered by a live person. I called repeatedly, only to be clicked off.

As stated previously, I was finally able to talk to a live person about three weeks ago, and they did not mention any type of problem. In fact, she only said I would be receiving payment at the end of May.

I finally talked to another live person on 6/9/20. I was on hold for 5 hours and 3 minutes. During that time, I probably talked to someone a total of 20 minutes. The last person I talked to said she had my information and would certify my six missing weeks.

That appears not to have happened.

I called back today (6/16/20) and spoke to another live person (Mikala, she said), and she told me that I would have to appeal. This means that either Mikala or the person I talked to on 6/9/20 was lying to me.

Furthermore, on this latest 6/16/20 call, Mikala indicated that she would have a supervisor give me a call back in about two hours. Nobody called me back. So, again, I feel like I've been lied to.

I would also note that I work at nights and the system or portal is almost always down. Even while I was laid off, I kept those night hours and had difficulty getting on the system.

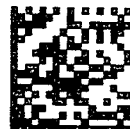
I did not receive any work compensation, paid leave, alimony, pension, or money of any kind during the time I was laid off. Please send the payment for the 6 weeks that I missed out on.

Thank you,

Greg German
306 21st Avenue S. #5D
Myrtle Beach, SC 29577
(843) 283-1892



South Carolina
Department of Employment and Workforce



10562907

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110959

Employer Name:

User ID: I

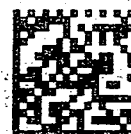
Fact Finding Questions	Responses
What back weeks are you requesting benefits for?	04/04/2020
Why are you filing the above week(s) late?	Unaware that weekly certifications were needed to file on claim
I understand that failure to file in a timely manner could affect my eligibility for benefits.	Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:37 PM



South Carolina
Department of Employment and Workforce



10562948

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110960

Employer Name:
User ID: I

Fact Finding Questions	Responses
What back weeks are you requesting benefits for?	04/11/2020
Why are you filing the above week(s) late?	Unaware that weekly certifications needed to be filed
I understand that failure to file in a timely manner could affect my eligibility for benefits	Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:39 PM



South Carolina
Department of Employment and Workforce



10562931

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110961

Employer Name:
User ID: 1

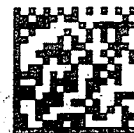
Fact Finding Questions	Responses
What back weeks are you requesting benefits for?	04/18/2020
Why are you filing the above week(s) late?	Unaware that weekly claims needed to be submitted
I understand that failure to file in a timely manner could affect my eligibility for benefits	Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:39 PM



South Carolina
Department of Employment and Workforce



10562922

Claimant Name: GREG J GERMAN

Employer Name:

Claimant Party ID: [REDACTED]

Issue ID: 7110962

User ID: I

Fact Finding Questions

Responses

What back weeks are you
requesting benefits for?

04/25/2020

Why are you filing the above
week(s) late?

Unaware that weekly
certification needed to be
submitted

I understand that failure to file in
a timely manner could affect my
eligibility for benefits.

Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:38 PM



South Carolina
Department of Employment and Workforce



10562882

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110963

Employer Name:
User ID: I

Fact Finding Questions

Responses

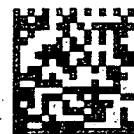
What back weeks are you requesting benefits for?	05/02/2020	
Why are you filing the above week(s) late?	I wasn't aware that I needed to file a weekly benefit	
I understand that failure to file in a timely manner could affect my eligibility for benefits.	Yes	

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:36 PM



South Carolina
Department of Employment and Workforce



10562892

Claimant Name: GREG J GERMAN

Employer Name:

Claimant Party ID: [REDACTED]

Issue ID: 7110964

User ID: I

Fact Finding Questions

Responses

What back weeks are you requesting benefits for?	05/09/2020	
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Why are you filing the above week(s) late?	Unaware that I needed to file a weekly claim	
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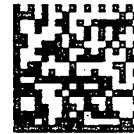
I understand that failure to file in a timely manner could affect my eligibility for benefits.	Yes	
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By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:37 PM



South Carolina
Department of Employment and Workforce



11718084

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 03/29/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: [REDACTED]
WBA: \$266.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 03/29/2020 to 04/04/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

SECTION 41-35-120(2)(b) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for cause, other than misconduct, connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than nineteen weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

SECTION 41-35-120(3) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for illegal drug use. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(4) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for gross misconduct. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

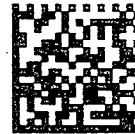
SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718116

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 04/05/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: [REDACTED]
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 04/05/2020 to 04/11/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

SECTION 41-35-120(2)(b) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for cause, other than misconduct, connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than nineteen weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

SECTION 41-35-120(3) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for illegal drug use. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(4) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for gross misconduct. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

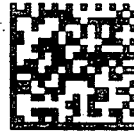
SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718157

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 04/12/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: [REDACTED]
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 04/12/2020 to 04/18/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

SECTION 41-35-120(2)(b) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for cause, other than misconduct, connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than nineteen weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

SECTION 41-35-120(3) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for illegal drug use. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(4) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for gross misconduct. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

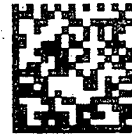
SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718187

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 04/19/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: [REDACTED]
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 04/19/2020 to 04/25/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

SECTION 41-35-120(2)(b) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for cause, other than misconduct, connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than nineteen weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

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SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718232

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 04/26/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: [REDACTED]
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 04/26/2020 to 05/02/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

SECTION 41-35-120(2)(b) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for cause, other than misconduct, connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than nineteen weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

SECTION 41-35-120(3) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for illegal drug use. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(4) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for gross misconduct. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

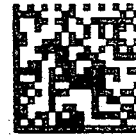
SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718292

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 05/03/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: [REDACTED]
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 05/03/2020 to 05/09/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law; benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

SECTION 41-35-120(2)(b) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for cause, other than misconduct, connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than nineteen weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

SECTION 41-35-120(3) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for illegal drug use. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(4) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for gross misconduct. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.

Appeal Filed Summary

Claimant Name GERMAN, GREG J.

Claimant ID [REDACTED]

Claimants masked SSN [REDACTED]

Employer Name

Employer Account #

Issue ID 7110959

Issue Description Reporting Requirement - Late Claim

Date of Determination being appealed 07/23/2020 12:00 AM

Reason the appellant provided for the appeal Please see appeal.pdf attached.

Appellant Claimant

Date and Time Stamp when appeal was filed 07/24/2020 08:14 AM

Decision Date: 07/23/2020

filed/uploaded 7/24/20

Mailing Date: 07/23/2020

Effective Date: 03/29/2020

Type: RR08 Category: Late Claim

Benefit Year Ends: 03/27/2021

RE: Claimant ID: [REDACTED]

SSN: XXX-XX-[REDACTED]

WBA: \$286.00

RBA: \$5,720.00

In Re: Greg German Appeal of All 7/23/2020 DEW Denials of Claims, including those for March 29-April 4, 2020; April 5-11, 2020; April 12-18, 2020; April 19-25, 2020; April 26-May 2, 2020; May 3-9, 2020;

COMES NOW, Petitioner Greg German, and files his appeals of the aforesaid denials of his claims.

1. BACKGROUND: Petitioner hereby incorporates by reference as if set out herein word for word all previous documents uploaded to DEW as if said documents were written out word-for-word herein.

2. In a nutshell, what happened is that Petitioner did not know he had to certify weekly benefits, as he had never filed for unemployment before in his life, and the DEW website, when not down, was confusing. Moreover, Petitioner attempted to contact DEW numerous times during the relevant period and was unable to get a human to answer the phone.

3. EVIDENCE: Petitioner would provide his cellphone records to prove contacts or attempted contacts with DEW. Additionally, Petitioner has taped conversations of DEW representatives telling him that he would be paid for these claims very quickly.

PHONE CALL WITH DEW REPRESENTATIVE 5/19/20

DEW REPRESENTATIVE: "I submitted all of your certifications for those six weeks ... the whole month of April and two weeks in May, so when you look on your account it's going to say 'pending resolution of late claim.' So, what they're going to do is just verify the information we put in, and once it's cleared, you'll get a payment for all six weeks."

PHONE CALL WITH DEW REPRESENTATIVE 7/10/20

DEW REPRESENTATIVE: "You need to reactivate your claim. You need to do it on your portal.... Reactivate your claim because you were late in certifying benefits ... so you need to reactivate the claim...."

GREG: [After reactivating claim] "Okay, it says that I successfully submitted my application."

DEW REPRESENTATIVE: "Okay, that's all you need to do now."

GREG: "All right. Then that's it? Then, they'll send me payment for the weeks that I screwed up?"

DEW REPRESENTATIVE: "Yes, Sir, they will."

4. Additionally, Petitioner would cite the confusing nature of the DEW website, the mixed messages (including saying that a job search was unnecessary), the lack of any "tickler" system about certification of benefits.

5. For further evidence of the arbitrary and capricious nature of these denials, Petitioner would note that the taped conversations indicate that DEW was not straightforward with the Petitioner about his claims, about transferring his call to another employee (on multiple occasions), and about calling him back and/or having a Supervisor call him back.

6. For example, on July 23, 2020, Petitioner Greg German spoke with a DEW representative in the Appeals Department named Ray. When Petitioner asked to be connected to a Supervisor, the DEW representative indicated that because of the COVID Virus, that could not happen. However, he told Petitioner that he would have his Supervisor give me a call (and he made me repeat my telephone number for that purpose).

7. Ray also said that if his Supervisor could not call me back, then he (Ray) would.

8. None of that happened. Nobody from DEW called back. Instead, Petitioner found all six of his weekly claims denied on the website later that evening.

9. ARGUMENT. In the midst of a pandemic, DEW has acted arbitrarily and capriciously in denying Petitioner Greg German's claims. Even though the DEW website was frequently down, and even though the DEW website was very

confusing, especially for a first-time user, the problem would have been alleviated if anybody had answered the phones at DEW when Petitioner was trying to ensure that his claim was filed correctly and all the proper steps were taken.

10. DEW has explained to me that the COVID pandemic excuses these issues, but they won't let Petitioner take the same relief.

11. Additionally, DEW personnel have indicated that payment would be just around the corner, and that this has happened to other people.

12. This is not the way to treat an Army veteran and first- and only-time unemployment compensation claimant.

WHEREFORE, Petitioner prays for payment of the six weeks claimed, including the CARES Act money, and interest. Finally, Petitioner reserves the right to amend or supplement this appeal as needed, and he reserves the right to file suit in a court of jurisdiction.

GREG GERMAN, Petitioner
306 21st Avenue South
#5D
Myrtle Beach, South Carolina 29577
(843) 283-1892
thetortmaster@yahoo.com

Decision Date: 07/23/2020

filed/uploaded 7/30/20

Mailing Date: 07/23/2020

Effective Date: 03/29/2020

Type: RR08 Category: Late Claim

Benefit Year Ends: 03/27/2021

RE: Claimant ID: [REDACTED]

SSN: XXX-XX-[REDACTED]

WBA: \$286.00

RBA: \$5,720.00

In Re: Greg German Appeal of All 7/23/2020 DEW Denials of Claims, including those for March 29-April 4, 2020; April 5-11, 2020; April 12-18, 2020; April 19-25, 2020; April 26-May 2, 2020; May 3-9, 2020;

SUPPLEMENT TO APPEALS

COMES NOW, Petitioner Greg German, and files his Supplement to Appeals of the aforesaid denials of his claims.

1. This is a supplement to appeals previously filed with the DEW.
2. The DEW recorded message for people calling in during the Covid pandemic in April noted that any indications in an individual's portal that there were issues that might delay payment would be handled by an agent.
3. That, along with the fact that no human answered the telephone for nearly a month—the line simply clicked off—caused Petitioner to believe that he had done everything appropriately with regard to filing his claim.

4. Moreover, there was also a waiver of any "seeking work" requirement.

5. The first time Petitioner actually talked to a human at DEW was after payment had been approved and then delayed for at least 21 days. This person indicated that there was no problem with Petitioner's claim.

6. I do not have a recording of this call, as at that time, I expected DEW to make the payments that it was supposed to, and I believed that DEW agents would treat the claim fairly.

7. There is also the matter of the Petitioner seeking documents through Freedom of Information Act (hereinafter "FOIA") requests from DEW.

8. Upon information and belief, Petitioner has been treated unfairly and differently from other claimants because of this request for FOIA documents. DEW has failed to respond to this legitimate aspect of the request.

9. Notably, Petitioner requested FOIA documents that were in his file or related to his claim, including any memos or notes from DEW agents. None of this was produced. Only what appears in the Petitioner's portal was produced.

10. Attached hereto as Exhibit "A" is a true and correct copy of that particular FOIA request, which is dated June 17, 2020.

11. Attached hereto as Exhibit "B" is a true and correct copy of my follow up with the DEW FOIA office on July 24, 2020.

12. If DEW has taken negative action based upon a statutory right to request FOIA documents, then the actions of DEW go well beyond "arbitrary and capricious."

WHEREFORE, Petitioner prays for payment of the six weeks claimed, including the CARES Act money, and interest. Finally, Petitioner reserves the right to amend or supplement this appeal as needed, and he reserves the right to file suit in a court of jurisdiction.

GREG GERMAN, Petitioner
306 21st Avenue South
#5D
Myrtle Beach, South Carolina 29577
(843) 283-1892
thetortmaster@yahoo.com

EXHIBIT "A"

FOIA CLAIM #1 – RELATED TO PERSONAL UNEMPLOYMENT CLAIM

Office of General Counsel
C/O Custodian of Records
Department of Employment and Workforce
Via email: FOIA@dew.sc.gov

Dear Records Custodian,

June 17, 2020

Under the South Carolina Freedom of Information Act, §30-4-10, et seq., I am requesting copies of records that pertain to me and my unemployment claim with the SC DEW, claimant identification number [REDACTED]. These records include:

Call logs, memos, texts, letters, reports, inter-office policy notes, emails or any other communications stored on paper, digitally, in the cloud or in any other manner that show SC DEW communications about me or with me from March 29, 2020 to the present.

Memos, texts, letters, reports, inter-office policy notes, emails or any other communications stored on paper, digitally, in the cloud or in any other manner that show DEW policy regarding persons who did not "certify" weeks during the recent coronavirus pandemic.

Memos, texts, letters, reports, inter-office policy notes, emails or any other communications stored on paper, digitally, in the cloud or in any other manner that show any input from my then- and current-employer, Red Roof Inn, regarding my DEW file from March 1, 2020 to the present.

Memos, texts, letters, reports, inter-office policy notes, emails or any other communications stored on paper, digitally, in the cloud or in any other manner that show instructions or tips or advice or any other information given to DEW customer service representatives when fielding questions about claimants with certification issues or questions in the last two years.

Memos, texts, letters, reports, inter-office policy notes, emails or any other communications stored on paper, digitally, in the cloud or in any other manner that show instructions or tips or advice or any other information given to DEW customer service representatives when fielding questions about claimants with certification issues or questions during the coronavirus pandemic.

The contents of "my file" at SC DEW or any other related paperwork that pertains to Greg German or his claim for unemployment, no matter if stored on paper, digitally or in the cloud.

Memos, texts, letters, reports, inter-office policy notes, emails or any other communications stored on paper, digitally, in the cloud or in any other manner that show the reason for DEW failing to answer telephones during the entirety of April and half of May, 2020.

Memos, texts, letters, reports, inter-office policy notes, emails or any other communications stored on paper, digitally, in the cloud or in any other manner that show the reason DEW did not show on individual portals any problems that might relate to certification of weeks.

Memos, texts, letters, reports, inter-office policy notes, emails or any other communications stored on paper, digitally, in the cloud or in any other manner that show why DEW would have their agents not instruct claimants about their need to certify weeks.

I would ask that you waive any request for fees as this request is not made for a commercial venture, and the information is necessary for a public and personal understanding of the DEW policy regarding the payment of unemployment claims.

The South Carolina Freedom of Information Act requires a response within a certain amount of time. If you cannot respond in said time, please contact me to let me know when you can respond.

If you deny any or all of my request, or feel compelled to redact any portion of same, please provide the specific exemption you feel justifies your refusal to provide that particular information, as well as my appellate rights under the law.

You may send responsive material to either the email address below or to my residence address. If you have any questions or comments, please give me a call.

Thank you for your consideration,

Greg German

Claimant # [REDACTED]

[REDACTED] DOB: [REDACTED]

Email address: thetortmaster@yahoo.com

Residence (and mailing) address: 306 21st Ave. S., #5D, Myrtle Beach, SC 29577

EXHIBIT "B"

Freedom of Information Act Office

South Carolina Department of Employment and Workforce

P.O. Box 8597, Columbia, SC 29202

Re: FOIA request 2020-69 and FOIA request 2020-70

Dear Sir or Madam,

I have noticed that in your response to records relating to my personal file, you have provided only those items that I can easily find using the DEW portal. My request was more expansive than that. For example, I spoke with DEW customer service representatives on more than one occasion, and they did not take notes or attach anything to my file?

At this time, I would incorporate by reference my earlier request and assert it anew, as I have talked to additional DEW customer service representatives since then, especially those in the Appeals department.

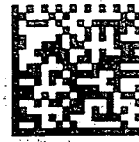
Additionally, in response to my global requests, it seems that you have implemented a procedure that is different from other FOIA departments in South Carolina. That is, you have not provided an amount up front for what it would take to search for the documents. I have asked for documents before in South Carolina and have not had any department request payment. But each department or agency did note that if they did, they would provide that up front.

Sincerely,

Greg German
thetortmaster@yahoo.com



South Carolina
Department of Employment and Workforce

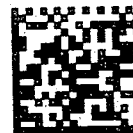


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GREG J GERMAN
306 21st Ave S Apt 5d
Myrtle Beach SC 29577-4628



South Carolina
Department of Employment and Workforce
Appeal Tribunal
P.O. Box 995
Columbia SC 29202



13223118

NOTICE OF HEARING BEFORE APPEAL TRIBUNAL (TELEPHONE CONFERENCE)

Mail Date: 10/07/2020

Claimant Name: GREG J GERMAN
Address: 306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577

Social Security Number: XXX-XX-
Claimant ID:
Appeal Number : 20-LA-042837
Phone: 843-283-1892

An administrative hearing will be held **TELEPHONE CONFERENCE** on: 10/14/2020 from 10:00 AM to 10:45 AM, Eastern Standard Time, BEFORE: LYNELL GWALTNEY, Administrative Hearing Officer, for the SC Department of Employment and Workforce. The parties will be called by the hearing officer at the telephone numbers shown on this form. **IF THE TELEPHONE NUMBER IS INCORRECT OR NO TELEPHONE NUMBER IS SHOWN, YOU MUST CALL THIS TOLL-FREE NUMBER 866-269-5680 IMMEDIATELY TO INFORM US OF YOUR TELEPHONE NUMBER SO THAT YOU CAN PARTICIPATE IN THE HEARING.**

If you have not been called within 10 minutes after the scheduled time of the hearing, you must call 803-737-2520. Either another hearing is still in progress, or we are unable to contact you. Failure to call or participate in the hearing may result in your interests being considered abandoned.

The issue(s) for the hearing are:

- Eligibility
- Eligibility
- Eligibility
- Eligibility
- Eligibility
- Eligibility

SCHEDULE CONFLICTS: Hearing postponements are not ordinarily granted. However, if you have a justifiable conflict, notify the Department as soon as possible before your hearing. If you do not, a later request to reopen your hearing may be denied. Contact an appeals representative at 803-737-2520, AT ONCE, if you cannot be present at the time scheduled and wish to request a postponement of the hearing.

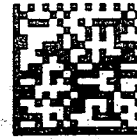
PURPOSE OF THE HEARING: The hearing is a fact-finding process that uses a question-and-answer method. Each side may present testimony, witnesses, and documents relevant to its case. The hearing officer will conduct a fair hearing, determine what is relevant, and make sure the record is complete. After the hearing, the officer will prepare a written decision based on the evidence. That decision will be mailed to you.

SPECIAL NOTE: The Appeal Tribunal may reverse, affirm, or modify the decision on appeal. Be advised that if a disqualification is at issue, then the appeal may result in an increase or decrease of the disqualification.



South Carolina
Department of Employment and Workforce

Appeal Tribunal
P.O. Box 995
Columbia SC 29202



13223118

WHAT HAPPENS AT A HEARING: This notice lists what issues the hearing will cover. The hearing is recorded and all proceedings are taken under oath. After explaining the law and procedures, the hearing officer will ask questions of each side and its witnesses in turn. After all testimony is taken from one side the same procedure is repeated for the other side. Wait your turn, as you may not interrupt while another person is testifying. The hearing officer will tell you when it's your turn to ask questions. Ask relevant questions that have not already been asked and answered. If you don't have any questions, let the hearing officer know.

EVIDENCE: Written evidence or documents such as letters timecards, or doctors' statements may help your case. Photos, maps, or charts may also help explain what happened. Be ready to tell who prepared the evidence and how it helps your case. Send legible copies of the documents to the hearing officer and the other side before the hearing. Do this even if you believe the Department or the other side already has them. **EVIDENCE MUST BE SUBMITTED TO THE APPEAL TRIBUNAL AND PROVIDED TO THE OPPOSING PARTY AT LEAST 24 HOURS PRIOR TO THE HEARING.** If you don't, the documents may not be considered as evidence. Include only evidence that relates directly to issues listed on the hearing notice.

Any evidence that you want to be considered in this hearing must be sent immediately to the Appeal Tribunal at the address shown on the top of this notice, or faxed to our number 803-737-0287, or uploaded through the claimant or employer self-service portal.

WITNESSES: You may present witnesses to support your case. Choose witnesses who actually saw or heard what happened. Those witnesses must be present at the time and location of the hearing.

DO I NEED A LAWYER? The unemployment appeal process is designed for claimants and employers who don't have attorneys. However, an attorney may represent you at your own expense. If you do choose to retain a lawyer, fees charged to represent claimants are limited to the greater of \$200 or a claimant's maximum weekly benefit amount for each proceeding.

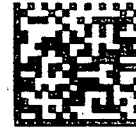
SUBPOENAS: A subpoena is a legal document issued by the Department that orders an essential witness to testify or produce certain documents for the hearing. You may apply for a subpoena of witnesses and/or documents by downloading a form APP-107 under the Appeal Hearings heading at www.dew.sc.gov/individuals/tools/forms. The form must be completed, signed and sent to the Appeal Tribunal. It may be sent by mail to "Appeal Tribunal, P.O. Box 995, Columbia SC, 29202," or by fax to 803-737-0287. **SUBPOENA APPLICATIONS MUST BE RECEIVED SIX (6) BUSINESS DAYS PRIOR TO THE HEARING DATE OR THE REQUEST MAY NOT BE CONSIDERED.**

INTERPRETERS: The Appeal Tribunal will provide qualified language interpreter or interpreter for the deaf when requested. If you or any of your witnesses need an interpreter and you have not previously requested one, contact the Tribunal immediately.



South Carolina
Department of Employment and Workforce

Appeal Tribunal
P.O. Box 995
Columbia SC 29202



13223118

WITHDRAWING AN APPEAL: Only the party who filed the appeal may withdraw it. If you wish to withdraw your appeal, please contact a Department representative at 803-737-2520 or mail your notice of withdrawal to "Appeal Tribunal P.O. Box 995, Columbia SC 29202".

TIME ZONES: If you call from a time zone other than Eastern Standard Time, be sure to properly calculate the time difference.

OVERPAYMENT OF BENEFITS: An adverse decision may result in an overpayment of benefits. In the event you are overpaid benefits, you will be required to repay those benefits to the Department.

DECISION: The Appeal Tribunal's written decision will resolve each issue, but it may not review in detail all testimony or documents given at the hearing. If you disagree with the decision, you may file a further appeal. The decision will explain how to file an appeal.

FILING FOR BENEFITS DURING APPEAL: A CLAIMANT MUST CONTINUE TO FILE WEEKLY CLAIMS FOR BENEFITS DURING THE APPEAL PROCESS, IF STILL UNEMPLOYED. Claim Weeks that are not timely filed cannot be paid, even if the claimant wins the appeal and is later held eligible. **CONTACT THE DEPARTMENT AT ONCE AT 1-866-831-1724** if there are any problems or questions when filing weekly claims.

THIS NOTICE SUPERSEDES ANY PREVIOUS HEARING NOTICE ON THIS ISSUE YOU MAY HAVE RECEIVED. IF THE DATE ON THIS NOTICE IS LATER THAN THE DATE ON ANY OTHER NOTICE, YOU SHOULD ASSUME THAT THE PREVIOUS HEARING HAS BEEN POSTPONED AND FOLLOW THE INSTRUCTIONS ON THIS NOTICE.

Selected Sections of the South Carolina Unemployment Law

VOLUNTARY QUIT: Section 41-35-120(1) provides that a claimant found to have left work voluntarily without good cause is indefinitely disqualified from receiving benefits until s/he returns to work and earn at least eight (8) times the weekly benefit amount. Good cause is a reason that is connected to employment and would justify a reasonable person leaving employment.

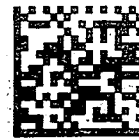
DISCHARGE FOR MISCONDUCT: Section 41-35-120(2)(a) provides that a claimant found to have been discharged for misconduct is disqualified for twenty (20) weeks. "Misconduct" includes conduct showing willful disregard of an employer's interests, such as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee. No finding of misconduct may be made for discharge resulting from an extreme hardship, emergency, sickness, or other extraordinary circumstance.

DISCHARGE FOR CAUSE: Section 41-35-120(2)(b) provides that a claimant found to have been discharged for cause (i.e., fault), other than misconduct, is partially disqualified from benefits from five (5) to nineteen (19) weeks, according to the seriousness of the cause for discharge.



South Carolina
Department of Employment and Workforce

Appeal Tribunal
P.O. Box 995
Columbia SC 29202



13223118

GROSS MISCONDUCT: Section 41-35-120(4) provides if a claimant is discharged for gross misconduct claimant is indefinitely disqualified from receiving benefits until s/he returns to work and earn at least eight (8) times the weekly benefit amount.

UNEMPLOYMENT DUE TO DOMESTIC ABUSE OR COMPELLING FAMILY CIRCUMSTANCES: Section 41-35-125 provides that a claimant may be found to be eligible for unemployment benefits if the separation from employment is attributable to domestic abuse or other compelling family circumstances. Compelling family circumstances may involve illness or disability of the claimant or an immediate family member and a required relocation for the claimant's spouse. The burden is on the claimant to show these circumstances exist. Where required by statute, the claimant must produce documentary evidence supporting the claim.

AVAILABILITY: Section 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations and the claimant has registered and maintained contact with the Department as required. Additionally, a claimant must be physically "able to work" at his/her usual occupation which prior training and experience shows him to be qualified. Also, a claimant must be "available for work," which means being ready, able and willing to accept suitable work, and that personal circumstances would not prevent him/her from accepting such work.

Unemployment benefits will not be paid for weeks in which the claimant is held to be unavailable. If the conditions which cause the unavailability change, the claimant may contact the Department to reopen his claim. The burden is on the claimant to show availability for work and reasonable effort to obtain work.

ONLINEWORK SEARCH REQUIREMENT: To be eligible for your weekly claim, you must perform at least two (2) job searches each week through the South Carolina Works Online Services (SCWOS) system. If you do not complete this requirement, you may not receive payment. The Department may waive this requirement to perform at least two (2) weekly job searches through SCWOS only for good cause. Good cause includes, but is not limited to, verifiable electronic access and/or language barriers, and is determined by the Department on a case-by-case basis and only after a claim has not been paid. See S.C. Code Ann. Regs. 47-104.

JOB OFFER AND REFERRAL: Section 41-35-120(5) provides that any claimant who has failed (1) without good cause to either apply for available suitable work, when so directed by the Department, or (2) to accept available suitable work when offered by the Department or an employer, shall be ineligible until the claimant furnishes satisfactory evidence of having been re employed and having earned at least eight (8) times the weekly benefit amount. The burden is on the claimant to show availability for work and reasonable effort to obtain work. See S.C. Code Ann. Regs. 47-23.

SOUTH CAROLINA

DEPARTMENT OF EMPLOYMENT & WORKFORCE

Columbia, South Carolina

**Transcript of Testimony
Before**

Lynell Gwaltney, Administrative Hearing Officer

Greg J. German	)	CLAIMANT
306 21 st Ave So, Apt. 5D	)	
Myrtle Beach, SC 29577	)	
Claimant SSN: XXX-XX-XXXX	)	

None	)	LIABLE EMPLOYER
	)	
	)	

PLACE OF HEARING:

SC Department of Employment & Workforce
Central Office Annex
631 Hampton Street
Columbia, SC 29201

DATE OF HEARING:

October 14, 2020

APPEARANCES:

For Claimant:	Greg J. German
For Employer:	None

TESTIFYING WITNESSES

CLAIMANT:

Greg J. German

EMPLOYER WITNESSES:

None

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GREG J GERMAN

Testimony of Greg J. German 7

EXHIBITS ENTERED

<u>Exhibit</u>	<u>Description</u>	<u>Page</u>
Agency Exhibit 1	24 pages of agency documents.....	7

Before Lynell Gwaltney, Administrative Hearing Officer

HEARING OFFICER'S PREAMBLE

ALL WITNESSES SWORN

[Recording started]

GREG J. GERMAN: Hello?

HEARING OFFICER: Hello. May I speak with Greg German, please?

GREG J. GERMAN: This is Greg.

HEARING OFFICER: Mr. German, my name is Lynell Gwaltney Administrative Hearing Officer with the South Carolina Department of Employment and Workforce calling in reference to the unemployment hearing scheduled for 10:00 o'clock this morning. Do you have any witnesses that will testify in the hearing today other than yourself?

GREG J. GERMAN: Other than myself, no. I do have recordings if you want to listen to them.

HEARING OFFICER: All right. If it is necessary to listen to the recordings at the appropriate time, I'll give you the opportunity to play those recordings provided they're relevant to the issue under appeal.

The next question before we begin, are you going to be represented by counsel in the hearing today?

GREG J. GERMAN: Not in the hearing today, no.

HEARING OFFICER: All right. I will read a brief statement into the record, and then I will explain the procedures for the hearing.

Per state law this hearing is being recorded and we are now on the record on Appeal Number 20-LA-042837 in the case of the

1 claimant Greg German. There is no liable employer for this
2 case.

3 The claimant appealed six Claims Adjudicators
4 Determinations, all of which were mailed on July 23, 2020
5 holding the claimant ineligible from receiving benefits for the
6 six benefit weeks spanning from March 29, 2020 through May
7 9, 2020 upon a finding that the claimant-- or upon findings
8 rather that the claimant failed to file weekly claims in a timely
9 manner.

10 The issue to be resolved in the hearing today is that of
11 eligibility for benefits. The hearing is being conducted on
12 October 14, 2020 before Lynell Gwaltney an Administrative
13 Hearing Officer with the South Carolina Department of
14 Employment and Workforce. The claimant Greg German is
15 present with no other witnesses and is not represented by
16 counsel in the hearing today.

17 Is that information correct, Mr. German?

18 GREG J. GERMAN:

Yes, ma'am.

19 HEARING OFFICER:

There is no liable employer for this case.

20 All testimony must be taken under oath or affirmation. I will
21 administer the oath now. Do you solemnly swear or affirm that
22 the testimony you are about to give is the truth, the whole truth,
23 and nothing but the truth, so help you God?

24 GREG J. GERMAN:

I do.

25 HEARING OFFICER:

26 Let the record reflect that the witness has answered in the
affirmative and is therefore duly sworn.

27 I will now explain the procedures. Initially, I will have
28 documents to share with you and questions to ask of you. Once
29 those questions have been answered, you will have the
30 opportunity to add relevant testimony. If there are any
31 documents that you wish to be considered, those should have

1 been submitted prior to the hearing today. It is your
2 responsibility to make me aware of those documents when they
3 become relevant during your testimony as they will not
4 automatically be considered. There can be no additional
5 testimony or evidence considered once the hearing today has
6 been closed.

7 The decision will be mailed to the address on record following
8 the hearing today. I'll verify your mailing address now. We
9 have 306 21st Street, Avenue S as in Sam, Apartment 5D as in
10 dog, Myrtle Beach, South Carolina, 29577. Is that correct?

11 GREG J. GERMAN: Not quite. It's 306 21st Avenue South.

12 HEARING OFFICER: Yes, I'm sorry. If I neglected the S or the south that's probably
13 in the home page or in the record. All right. The telephone
14 number that we have for you is 843-283-1892. Is that correct?

15 GREG J. GERMAN: Yes, ma'am.

16 HEARING OFFICER: All right. Before proceeding to testimony, do you have any
17 questions regarding the issues or procedures for the hearing
18 this morning?

19 GREG J. GERMAN: No, ma'am.

20 HEARING OFFICER: All right. Please state and spell your first and last names for the
21 record.

22 GREG J. GERMAN: It's Greg G-R-E-G, German G-E-R-M-A-N.

23 HEARING OFFICER: To establish the purpose of the hearing today, I'll have
24 documents to share with you, the first of which are the
25 determinations under appeal. Those appear to be the six
26 determinations, all of which mailed July 23, 2020
27 chronologically for the weeks of an eligibility of for the week
28 ending April 4, 2020, April 11, 2020, April 18, 2020, April 25,
29 2020, May 2, 2020, and May 9, 2020. Are those in fact the six
30 determinations that you are appealing?

1 GREG J. GERMAN: Yes, ma'am.

2 HEARING OFFICER: I am required to enter into the record the determinations under
3 appeal, as well as the documents under review and relevant to
4 the issue at the time the determinations were rendered. I'll
5 describe those briefly.

6 So in addition to the six determinations, each of which are two
7 pages, so that totals 12 so far, there's also the initial claims--
8 I'm sorry, the actual dynamic factfinding questions and
9 answers regarding each of the claim weeks. Each of those
10 dynamic factfindings are one page each, so that is an additional
11 six pages.

12 Then there is the initial claims application at the time of filing
13 the initial application for benefits on March 30, 2020. That is
14 four pages.

15 There's also the one-page claim history reflecting the dates of
16 reopening the claim-- or there were two initial or two. There
17 was an addition to the initial claim there were two dates of
18 reopening of May 15 and July 10, 2020.

19 And lastly there is the payment screen reflecting the dates that
20 the claims-- the weekly claims in question were filed. So in
21 total what I've described are 24 pages which I have marked as
22 Agency Exhibit 1, the foundational documents for the hearing
23 today.

24 Do you have any objection to the admission of Agency Exhibit
25 1 being entered into the record?

26 GREG J. GERMAN: I just have a question. When were those documents prepared?
27 I'm talking about the determinations, and there was another
28 determination type document that you mentioned.

29 HEARING OFFICER: The only determinations are the six under appeal. I'm not-- so
30 what else are you referring to? So I'll describe again. So the
31 documents are the six determinations. Those are two pages

1 each. The dynamic factfinding questions, I'm not sure if that's
2 what you're referring to; those are the questions and answers
3 that you the claimant answered at the time of requesting the
4 back weeks in question. Those are six pages, one page each.
5 Then there's the claims application, and the claims history, and
6 the payment summary. Those total 24 pages which I've marked
7 as Agency Exhibit 1. Do you have any objection to Agency
8 Exhibit 1 being entered into the record?

9 GREG J. GERMAN:

I just had the question about six determinations that are two
pages each and when they were prepared, and have I been
provided those previously?

12 HEARING OFFICER:

Those are-- they were all dated July 23, 2020. They would have
been mailed to you at your address of record on that date July
23, 2020. I'm assuming you received those as you filed an
appeal. Is that correct?

16 GREG J. GERMAN:

That's correct. I just needed to figure out exactly what they
were. I have no objection.

18 HEARING OFFICER:

All right. Agency Exhibit 1 is entered as described without
objection.

AGENCY EXHIBIT NUMBER 1

IS HEREBY ENTERED

22 HEARING OFFICER:

All right. Now--

23 GREG J. GERMAN:

Although I would want to add before it's completed entered
into the record that the individual one-page determination for
each of the claims. The agent who talked to me on the
telephone did not ask me the third and final question on each
of those six individual determinations where she prepared
them, asked me the first two questions, and did not ask me the
third question.

30 HEARING OFFICER:

Are you referring to the dynamic factfinding questions?

1 GREG J. GERMAN: Yes, ma'am.

2 HEARING OFFICER: All right. So the first question on each week is, "What back
3 weeks are you requesting benefits for?"

4 Then the second question is, "Why are you filing the above
5 weeks late?"

6 The answer typed in is, "Unaware that weekly certifications
7 were needed to file on claim."

8 The third question is, "I understand that failure to file in a
9 timely manner could affect my eligibility for benefits." So is
10 that the question you're stating was not recited to you?

11 GREG J. GERMAN: That's correct.

12 HEARING OFFICER: All right. So if I'm understanding correctly, your testimony is
13 that you yourself did not individually answer the dynamic
14 factfinding questions. You sought assistance from a
15 department representative who helped you answer those
16 dynamic factfinding questions and entered the information.

17 GREG J. GERMAN: And that factfinder did ask me the first two questions for each
18 claim but not the third question. I was never asked the third
19 question.

20 HEARING OFFICER: All right. Now, when you filed your initial claim-- so it looks
21 like you filed the initial claim for unemployment insurance
22 benefits on March 30, 2020 it looks like 2:40 a.m. is that
23 correct to your recollection?

24 GREG J. GERMAN: Yes, ma'am.

25 HEARING OFFICER: All right. So when you-- before you can end or close the
26 application you have to certify the initial claim. So the question
27 that actually asks, "You must actively search for suitable work
28 each week that you file a weekly certification for
29 unemployment insurance benefits by performing at least two
30 job searches through the South Carolina Works online system

1 (SCWOS) so that the search can be electronically verified.
2 Suitable work includes any trade, occupation, or business in
3 which you are qualified based upon your training and
4 experience, and which pays at least 90 percent of your previous
5 salary from the most recent bona fide employer during the first
6 eight pay weeks of unemployment, and 75 percent of your
7 previous salary after eight paid weeks of unemployment. Are
8 you willing to accept this requirement, yes or no?" So it looks
9 like you answered yes.

10 And I know March was a long time ago, so I'm not sure if you
11 remember answering that question. However, at the time of
12 filing in March the actual work search on SCWOS was waived.
13 However, in the question it implied that you have to file a
14 weekly certification. Did you understand that requirement at
15 the time?

16 GREG J. GERMAN: No, ma'am.

17 HEARING OFFICER: All right. So it looks like for the six weeks in question the
18 weeks spanning May 20-- I'm sorry March 29th to May 9th it
19 looks like you filed the weekly claims for each of those weeks
20 on June 19th. Let me-- yes, June 19, 2020. Is that correct?

21 GREG J. GERMAN: That's what the portal shows, then that's correct.

22 HEARING OFFICER: All right. Why the delay? Why not file sooner?

23 GREG J. GERMAN: Well, that's a long answer. First off, I was unfamiliar with the
24 unemployment system. I never filed for unemployment before
25 in my life. Forty four years of employment history including
26 four years in the army, I never filed for unemployment. All I
27 thought that was necessary was filing a claim, and then seeking
28 on a weekly basis employment. So one, file a claim; two, on a
29 weekly basis seek employment.

30 Now it was my understanding based on what you just recited,
31 and also from everything I've heard in my life that-- or excuse

1 me, from what I've heard on the messages on the website and
2 on the messages I heard on the telephone that the weekly
3 requirement was waived as you put it, that I would no longer
4 have to seek work because of the pandemic, and so I did not.

5 And I only became-- well I did try and call multiple times from
6 April 4th until June at least 16 times that I show on my phone
7 log. And for at least the first month, I think a little bit longer
8 than a month there was no answer other than a recorded
9 message that said the same thing every time. And one of the
10 things it said was if there's any issue that appears on your portal
11 then don't worry about it and they could fix it. Now looking
12 back apparently they were talking only about the work search
13 requirement. However, you know, at that time that's all I
14 thought they meant. I had no idea there was a certification
15 requirement every week.

16 And in my particular line of work I work at night and so-- and
17 I kept those hours when I was laid off. And so I did not have
18 people I was talking to on a daily basis. The folks that I know
19 had never filed for unemployment before either, so they had no
20 idea what was going on. And my closest friends work in
21 grocery retail business so they were still working. And of
22 course like I said they never filed for unemployment before
23 either so they had no idea what the system was like.

24 But like I said, I tried to call multiple times, at least 16 times
25 from April 4th until June and got no human response. When I
26 finally did get a response that person told me-- when I asked
27 that person, "Please check my file. Make sure I've done
28 everything right." And she said that she did. And she said there
29 was no problem with it, that I would get paid but it was taking
30 longer because of the pandemic.

31 I waited after that for the payments and it didn't come back so
32 I kept calling DEW and asking what's going on. And that's
33 when I started recording conversations because I was getting

1 nowhere and I wanted it to be resolved. So that's my long
2 answer.

3 HEARING OFFICER: All right. So you believe that-- so if I'm understanding
4 correctly, you were aware that the work search requirement on
5 the SCWOS website had been waived, but you were unaware
6 of the separate requirement to file a weekly benefits to each
7 week certifying weekly claims. Is that correct?

8 GREG J. GERMAN: That's correct.

9 HEARING OFFICER: All right. So the first-- so when you filed those weekly claims
10 for those six weeks in question on June the 19th the work
11 search-- I'm sorry, not the work search, the weekly claims are
12 done online. Did you do those yourself or did a representative
13 assist you?

14 GREG J. GERMAN: A representative assisted me.

15 HEARING OFFICER: All right. Now it looks like you reopened the claim on May 15,
16 2020. Is that correct to your recollection?

17 GREG J. GERMAN: I think that I might have been fooling around trying to figure
18 out what was wrong, and I might have reactivated it. I don't
19 know.

20 HEARING OFFICER: All right. And what to the best of your recollection what made
21 you reactivate in May on May 15 or so?

22 GREG J. GERMAN: I cannot recall. I just know that I was laid off on March 30th I
23 believe it was, and still hadn't been paid, and was receiving no
24 money, and I was worried. I was getting no help from DEW,
25 no human response whatsoever for the first month, maybe
26 month and a half. I don't recall for sure but I know it was at
27 least a month and maybe a week after that before I talked to an
28 actual human on the phone.

29 HEARING OFFICER: So the 16 times you said you called between April 4th and then
30 ultimately in June, did you actually get to speak to an
31 individual?

1 GREG J. GERMAN: I believe one of those calls was when I talked to the young lady
2 who said that-- I asked her to look at my claim and see if it was
3 done properly. And she said she looked at it and said it looks
4 fine, that I should expect payment although things can be
5 delayed because of the pandemic.

6 HEARING OFFICER: And do you recall the date of that call?

7 GREG J. GERMAN: I do not.

8 HEARING OFFICER: All right. And so when you spoke-- when you asked her to look
9 at your claim to see if it was fine, did you leave it in general
10 look at the claim or did you say look at my claims application?
11 Do you recall?

12 GREG J. GERMAN: No, I don't. I just know I said, "Is there anything wrong with
13 what you see?" And I noticed she was on my portal looking at,
14 you know, what I had there. And so I wanted her opinion as to
15 what was wrong and what I could do to fix it if there was
16 something wrong.

17 HEARING OFFICER: All right.

18 GREG J. GERMAN: She said there was nothing wrong, that was that.

19 HEARING OFFICER: All right. Now I'm looking at the claim-- I'm sorry, the
20 department's website-- the SCDEW website. There's
21 guidance. And I know you have to search on the website. But
22 there's a guide-- under individuals there's tab for managing
23 your weekly benefits. Did you by any chance happen to look
24 on that website and see references to filing weekly claims or
25 certifying weekly?

26 GREG J. GERMAN: No, ma'am. If I had, I would have done that.

27 HEARING OFFICER: All right. And to be clear, at this point you are aware now of
28 the requirement to file weekly claims preferably the Sunday or
29 Monday following the actual benefit week, answering those
30 certification questions regarding your availability, correct?

1 GREG J. GERMAN: Yes, ma'am.

2 HEARING OFFICER: All right. When did you to the best of your recollection first
3 become aware of that requirement?

4 GREG J. GERMAN: I don't believe it was until that day when I spoke to the agent
5 who certified it with me. Actually it was probably a day or two
6 before that I was talking to somebody and they said, "Oh, you
7 got to certify."

8 I was like, "What do you mean?"

9 And they told me that you have to certify every week. And I
10 was like, I didn't know anything about that. And I told them,
11 you know, "I don't have to look for work, they waived that.
12 You no longer have to do that."

13 And they said, "No, you have to certify."

14 So that's when I called DEW. And then the young lady at that
15 time helped me certify each of those six weeks.

16 HEARING OFFICER: All right. So is the somebody a personal friend of yours or an
17 acquaintance?

18 GREG J. GERMAN: Yes, my neighbor.

19 HEARING OFFICER: Your neighbor? All right. At this point I don't have any other
20 questions for you. Is there anything else you would like to add
21 relevant to the issue of the late claims for the six weeks in
22 question before closing of the hearing?

23 GREG J. GERMAN: Yes. There's actually a little bit that I wanted to add. I know
24 I've already mentioned some of this, but I want to go ahead and
25 make sure that this is available, and I don't waive any rights on
26 appeal if I need to appeal.

27 And I want to start off with the taped messages that I made
28 involving the DEW personnel. Okay. I think where we left off,
29 you and I discussing this would be where we start-- where I
30 would start with my additional testimony. And that's that on

1 June 19, 2020 I am still waiting for payment. And I called up
2 DEW again and that's when we had this discussion on
3 certifications.

4 And during this discussion this is what the representative said.
5 "I submitted all of your certifications for those six weeks; the
6 whole month of April and two weeks in May. So when you
7 look on your account it's going to say pending resolution of
8 claim. So what they're going to do is just verify the information
9 you put in, and once it's cleared you'll get payment for all six
10 weeks." And that was a new representative on June 19, 2020.
11 And I have a recording of that which I'll be happy to play for
12 you if you want to hear it.

13 And then again I waited for payment. There was no payment
14 so I called DEW back on July 10, 2020 and I also taped that
15 conversation which went like this. And this is the DEW
16 representative speaking. "You need to reactivate your claims.
17 You need to do it on your portal. Reactivate your claim because
18 you were late in certifying benefits so you need to reactivate
19 the claim."

20 And then this is me. "Okay. It says that I successfully
21 submitted my application." This was after sometime where I
22 spent on the machine reactivating my claim.

23 Then a DEW representative said, "Okay. That's all you need
24 to do now."

25 Now I responded, "All right, then that's it. Then they'll send
26 me payment for the weeks that I screwed up."

27 And then the DEW representative said, "Yes, sir, they will."

28 That I also have on tape and will be happy to play it for you if
29 you'd like to hear it.

30 Also I wanted to note that on July 23rd I spoke to a gentleman
31 by the name of Ray in the appeals office. And at that time, you

1 know, I let him know that I had taped conversations with DEW
2 employees telling me that my claim was processed to pay. And
3 he indicated that he would have his supervisor call me back
4 that day. Well that didn't occur. Instead DEW denied all my
5 claims that very same afternoon without calling me back.

6 Now I want to make sure that for the record that my claim--
7 that I had alternative claims that DEW acted arbitrarily
8 previously by denying my claims because I had told Ray that I
9 was taping conversations. And I believe that's a distinct
10 possibility because as soon as I mentioned that, boom, later that
11 afternoon all my claims were denied.

12 Additionally, I had sent [UNCLEAR] information at the
13 request to DEW asking for records about my personal file and
14 some general requests. DEW responded with just the items that
15 I could have gotten on my portal by myself and nothing else.
16 Well, I ended up having to ask them multiple times for these
17 documents that I requested including documents that I thought
18 would be relevant for this hearing today including questions or
19 documents dealing with certifications, how many were denied
20 because there was no certification, what were the reasons of
21 denial for claims based on rate certifications, what
22 representative were told to tell claimants regarding
23 certifications, and things like that. Anyway, they didn't provide
24 me of that [UNCLEAR].

25 But I did in a later conversation with somebody at DEW to find
26 out about that they had not given me my entire personal file as
27 they claim because when the DEW representatives took my
28 calls they would make a notation in their file and that would
29 become part of my personal file. So I let DEW know that I
30 knew this now and within an hour and a half they had sent me
31 that paperwork. So I'm thinking that my alternative argument
32 would be that-- and I need this state this for the appeal, for the
33 record, just to make sure that I don't waive this right or waive

1 this claim, and that's that because I filed a request seeking
2 documents under the [UNCLEAR] Information Act that DEW
3 denied my claim.

4 I also wanted to note on another subject that I have one bank
5 account. The balance on that account at this time is \$127.53.
6 I'm not a tycoon or a wealthy person but that account usually
7 has more money in it than that. Unfortunately because of
8 missing six weeks of work while still having to pay for food,
9 rent, electricity, and water, my financial situation took a grave
10 turn for the worst.

11 Let's see. I might be done here. Okay. As for final argument, I
12 would agree that I did not certify six weeks of my
13 unemployment within a couple weeks of those dates. I've
14 certified them since and I would certify them again today if
15 necessary. I believe that my mistake was made and at least
16 exacerbated in part because I was not allowed to talk to a
17 human person at DEW. As soon as I was able to I called them,
18 talked to them, and worked through it, and even though their
19 website was offline for much of the time, especially for me as
20 a night auditor. For example last night I tried to get on and it
21 was off and with a little message saying that it wouldn't be
22 back on until much later.

23 So what I'm asking for is for full payment of the six weeks
24 including the Cares Act money. That would be a total of
25 \$5,316.00 which would in turn be equal to six weeks of
26 \$886.00 which is the amount I was paid per the one week that
27 they give per day. And that's all I have. Thank you.

28 HEARING OFFICER:

29 Thank you. There being nothing further, this hearing is
30 adjourned. I do thank you for your time and participation in the
31 hearing today. You will receive the decision in the mail at the
32 address that we verified. Have a good remainder of your day,
Mr. German.

1 GREG J. GERMAN: Thank you, ma'am.

2 HEARING OFFICER: Thank you. Goodbye.

3

4

[Recording ended]

5

HEARING CLOSED

6

7

CERTIFICATE

This is to certify that this is a copy of the proceedings held in a hearing before Lynell Gwaltney, Administrative Hearing Officer, for the South Carolina Department of Employment Workforce, in the matter of Greg J. German, Claimant on October 14, 2020 at 10:00 a.m., which proceedings were phonographically recorded, transcribed by me, and herein appear.



Robin Brostovski
Transcriptionist
Williams & Associates

Richmond, Virginia

January 11, 2021

CERTIFICATE

This is to certify that this is a copy of the proceedings held in a hearing before Lynell Gwaltney, Administrative Hearing Officer, for the South Carolina Department of Employment Workforce, in the matter of Greg J. German, Claimant on October 14, 2020 at 10:00 a.m., which proceedings were phonographically recorded, proofread by me, and herein appear.

Linda A. Williams
Proofreader
Williams & Associates

Richmond, Virginia

[ProofDate]



South Carolina
Department of Employment and Workforce



11718084

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 03/29/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: XXX-XX-XXXX
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 03/29/2020 to 04/04/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

SECTION 41-35-120(2)(b) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for cause, other than misconduct, connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than nineteen weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

SECTION 41-35-120(3) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for illegal drug use. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(4) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for gross misconduct. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718116

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 04/05/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: XXX-XX-XXXX
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 04/05/2020 to 04/11/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations; and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

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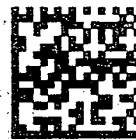
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If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718157

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 04/12/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: XXX-XX-XXXX
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 04/12/2020 to 04/18/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

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SECTION 41-35-120(4) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for gross misconduct. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

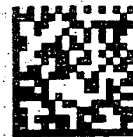
SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718187

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 04/19/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: XXX-XX-
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 04/19/2020 to 04/25/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

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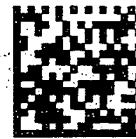
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If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718232

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 04/26/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: XXX-XX-XXXX
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 04/26/2020 to 05/02/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM

South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term "bona fide employer" means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

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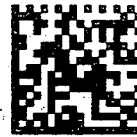
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FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



11718292

Original

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577-4628

Decision Date: 07/23/2020
Mailing Date: 07/23/2020
Effective Date: 05/03/2020
Type: RR08
Category: Late Claim
Benefit Year Ends: 03/27/2021
RE:
Claimant ID: [REDACTED]
SSN: XXX-XX-[REDACTED]
WBA: \$286.00
RBA: \$5,720.00

DECISION

You are held ineligible for benefits from 05/03/2020 to 05/09/2020.

DETERMINATION REASON

In order to receive benefits, an individual must file his/her weekly claim in a timely manner, under the South Carolina Code Section 41-35-110. You failed to file your claim(s) timely.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied.

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 08/03/2020. Your appeal may be filed via the MyBenefits Portal, by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at www.dew.sc.gov/individuals/manage-your-benefits/appeals.

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South Carolina
Department of Employment and Workforce

EXPLANATION OF DETERMINATION

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SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

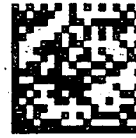
SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.



South Carolina
Department of Employment and Workforce



10562907

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110959

Employer Name:

User ID: I

Fact Finding Questions	Responses
What back weeks are you requesting benefits for?	04/04/2020
Why are you filing the above week(s) late?	Unaware that weekly certifications were needed to file on claim
I understand that failure to file in a timely manner could affect my eligibility for benefits.	Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:37 PM



South Carolina
Department of Employment and Workforce



10562948

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110960

Employer Name:
User ID: I

Fact Finding Questions

Responses

What back weeks are you
requesting benefits for?

04/11/2020

Why are you filing the above
week(s) late?

Unaware that weekly
certifications needed to be filed

I understand that failure to file in
a timely manner could affect my
eligibility for benefits.

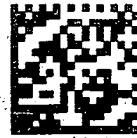
Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:39 PM



South Carolina
Department of Employment and Workforce



10562931

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110961

Employer Name:

User ID: I

Fact Finding Questions	Responses
What back weeks are you requesting benefits for?	04/18/2020
Why are you filing the above week(s) late?	Unaware that weekly claims needed to be submitted
I understand that failure to file in a timely manner could affect my eligibility for benefits	Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:39 PM



South Carolina
Department of Employment and Workforce



10562922

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110962

Employer Name:
User ID: I

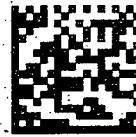
Fact Finding Questions	Responses
What back weeks are you requesting benefits for?	04/25/2020
Why are you filing the above week(s) late?	Unaware that weekly certification needed to be submitted
I understand that failure to file in a timely manner could affect my eligibility for benefits	Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:38 PM



South Carolina
Department of Employment and Workforce



10562882

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110963

Employer Name:
User ID: I

Fact Finding Questions	Responses
What back weeks are you requesting benefits for?	05/02/2020
Why are you filing the above week(s) late?	I wasn't aware that I needed to file a weekly benefit
I understand that failure to file in a timely manner could affect my eligibility for benefits.	Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:36 PM



South Carolina
Department of Employment and Workforce



10562892

Claimant Name: GREG J GERMAN
Claimant Party ID: [REDACTED]
Issue ID: 7110964

Employer Name:
User ID: I

Fact Finding Questions	Responses
What back weeks are you requesting benefits for?	05/09/2020
Why are you filing the above week(s) late?	Unaware that I needed to file a weekly claim
I understand that failure to file in a timely manner could affect my eligibility for benefits	Yes

By submitting this form, you confirm these are your own answers to the best of your knowledge.

Date Completed: June 19, 2020 04:37 PM

Personal Information

Claimant Id: [REDACTED]

Date of Birth: [REDACTED]

First Name:

GREG

Other Last Name Used (1)

Other Last Name Used (2)

Last Name:

GERMAN

Other Last Name Used (3)

Middle Initial:

J

Gender:

Suffix:

Mothers Maiden Name:

Address Information

Country:

USA

Mailing Address, if different from residential:

306 21ST AVE S APT 5D

Mailing Address City:

Myrtle Beach

Mailing Address State:

South Carolina

Mailing Address Zip:

29577

Residential Address Country: USA

Residential Address:

306 21ST AVE S APT 5D

Residential Address City:

Myrtle Beach

Residential Address State:

South Carolina

Residential Address Zip:

29577

Closest Employment Services Office:

Coastal/Conway

Commuter:

Contact Information

Primary Phone:

843-283-1892 Ext:

Alternate Phone:

Ext:

Cell Phone:

843-283-1892

Fax Number:

E-mail Address:

thetortmaster@yahoo.com

Preferred Contact Method: E-mail

I wish to receive text alerts on important information on my unemployment claim.

Yes

Demographic Information**Eligibility**

Indicate from what location you are filing your claim

Home

Have you applied for or are you receiving benefits from any state or federal programs?

No

Employment History

Has all of your employment been in another state since 09/30/2018?

No

Has any of your employment been in another state since 09/30/2018?

No

Have you served in the Military since 09/30/2018?

No

Are you currently in the State of SC?

089

Have you worked for a professional athletics organization since 09/30/2018 No
 Are you a Longshoreman who has been assigned work by a Longshoreman Union since 09/30/2018 No
 Are you an elected official No

Employability Questions

Are you currently self-employed or do you earn income on a commission basis? No
 Do you have plans to become self-employed or earn income on a commission basis? No
 Are you currently able to look for, accept, and perform full time work for which you have training or experience? Yes
 Are you currently enrolled in school or in training? No
 Are you available only for part-time work? No
 Have you filed a claim in the past year for worker's compensation due to a work related injury? No

Employers - Regular

Employer Name	Address	Dates of Employment	Type of Employment
RED ROOF INNS INC, DBARED ROOF INNS INC	P.O. BOX 280 NORTH FLATTE 69103	01/25/2018-03/28/2020	Full Time

Separation - Regular

Employer Name: RED ROOF INNS INC, DBARED ROOF INNS INC
 Reason employment ended: Layoff due to Coronavirus
 If Quit or Discharge select the reason why:
 Will you be returning to work for this employer? Yes
 If yes, please enter your return to work date: 05/01/2020
 State where work was performed: South Carolina
 City where work was performed: Myrtle Beach
 Primary Occupation with this employer:
 Are you an owner, corporate officer, or stakeholder of this employer? No
 What were your total earnings with this employer from: 13855.26

Other Separation

Are you currently receiving workers' compensation workers compensation for a job related injury or illness? No
 Are you or will you receive pension or retirement pay (other than Social Security)? No
 Are you or will you receive vacation pay, severance pay, military accrued leave pay or other separation pay? No
 If you are eligible to receive benefits, would you like Federal Income Tax withheld from your benefits? No
 If you are eligible to receive benefits, would you like State Income Tax withheld from your benefits? No
 Do you have a definite return to work date or will start a new job or an employer you have not told us about? Yes
 If yes, what is the name of the employer?
 If yes, what is your return to work or start date? 05/01/2020
 Preferred Payment Method: Debit Card

Call Search

What is your lowest Rate of Pay you will accept for the type of work you are seeking? \$12.85 per Hour
 Are you currently receiving any other form of income?

Military/Veteran Information

Are you a veteran? Yes

Is your spouse a veteran? No

Is your spouse a veteran killed in active duty? No

Is your spouse a deceased veteran who had a total disability? No

Is your spouse a service member who is a MIA or POW? No

Is your spouse a veteran who had a total (100%) disability rating from the VA? No

Were you awarded any campaign badges, ribbons or decorations? Yes

If yes, please mention Army Commendation Medal Army Achievement Medal

Have you worked on a farm? No

Did you earn at least half of your last 12 months income on a farm?

Were you employed all year on a farm?

Did you travel to work?

Did you work at least 25 days on a farm?

Have you worked in a food processing plant? No

Did you earn at least half of your last 12 months income in food processing?

Were you employed all year in food processing?

Did you travel to work?

Did you work at least 25 days in food processing?

Do you have a valid SC driver's license? Yes

Please provide your driver's license number as it appears on your driver's license

Please provide your weight as it appears on your driver's license

Driver's license class D Regular Operator License

Commercial driver's license classes None

Commercial driver's license restrictions None

Job Eligibility Counties

Select upto 6 counties where you are willing to work

HORRY

Job Eligibility Experience

Are you willing to look for other types of work?

Primary Choice

Kinds of Jobs Seeking / ONET?

Hotel, Motel, and Resort Desk Clerks

Years of experience:

62

Years of Training:

Secondary Choice

Kinds of Jobs Seeking / ONET?

Law Clerks

Years of experience:

62

091

How much did you earn on your last job? 12.88

Unit of pay: Hour

Travel Miles: 0-5

Location

Are you willing to relocate? No

Are you willing to travel at least the same distance as you last traveled to your last job? Yes

Your transportation methods: Bicycle

Availability Start Date Immediately? Yes

You must actively search for suitable work each week that you file a weekly certification for unemployment insurance benefits by performing at least two (2) job searches through the South Carolina Works Online System (SCWOS) so that the search can be electronically verified. Suitable work includes any trade, occupation, or business in which you are qualified based upon your training and experience, and which pays at least 90% of your previous salary from the most recent bona fide employer during the first eight paid weeks of unemployment and 75% of your previous salary after eight paid weeks of unemployment. Are you willing to accept this requirement yes or no? Yes

Does a lack of childcare or dependent care affect your ability to work? No

Job And My Training

Available Time (Start Time - End Time)

23:00 - 7:00

Available Days

Monday

Tuesday

Wednesday

Thursday

Friday

Are you willing to work the same hours/shifts/days you worked on your last job?

Yes

Date Completed: Mar 30, 2020 2:40 AM

APPLY FOR BENEFITS: CLAIM HISTORY



IN/INCO

Accounts

Benefits

NEW/OLD BENEFITS

Employees

Self/Spouse

Audit

Claimant / Employer

Claims

Communications

Monetary/Payments

Interfaces

Recoveryment

System Maintenance

Administration

LYNELL GWALTNEY

SSN:

Name: GERMAN, GREG J.

Date of Birth:

Address: 306 21ST AVE
SAPT 5D

City/State/Zip:

Language: English

Claim ID

DWP

BVC

Initial State

Program

Status

Claim:

1058094

03/29/2020

03/27/2021

SC

WPI

Open

Monetary:

High

WBA: 186

MSA: 5720

PSA: 5434

Fund: 01

Earning Allowance: 71.5

Claim Filing History

ID	Filing Type	Confirmation No	File Date	Effective Date	Back Date Code
2	Reopen	8495826	07/10/2020	07/05/2020	None
1	Reopen	5213182	05/15/2020	05/10/2020	None
0	Initial	2803502	03/30/2020	03/29/2020	None

Claim Details

Filing Type : Reopen	Reactivate Filing Method : Internet (CSS)	US Citizen : Yes	Alien Reg No. :	Alien Reg Exp Date :	Self Employed : No
Plans to be Self-Employed/Commission Basis :	Attending School : No	Able/Available : Yes	Only Available PT No	Elected Official : No	
Pension / Retirement No	Currently Receiving No	Workers Comp : No	Federal Withholding No	State Withholding : No	
Pay : Bank Institution Name :	Vacation/Severance Pay : [REDACTED]	Return to Work : [REDACTED]	When : [REDACTED]	What Employer : [REDACTED]	Preferred Debit Payment : Card
Have Tools :	Lowest Rate : \$ 12.88	Wage Type : Hour	Checking or Savings : [REDACTED]	Distance : [REDACTED]	Tools Required : No
Job Service Contact Date :	Contact Reason : [REDACTED]	Back Date : [REDACTED]	Date Created : 07/10/2020	Created By : CSS/FORMMASTER	
File Date : 07/10/2020	Effective Date : 07/05/2020	Back Date : [REDACTED]	Date : [REDACTED]	Created : [REDACTED]	

Work Source Waiver

Profiled

Profiled Date

CSS Hold

Claim No

Name: [REDACTED]

Customer



PAYMENTS: PAYMENT SUMMARY

My Inbox Appeals Benefits WFE Quick Links Search Items My Alerts
Audit Calmant / Employer Claims Communications Monetary Payments Interfaces Recruitment
System Maintenance Administration

LYNEEL GWALTNEY

SSN: [REDACTED]

Name: GERMAN, GREG J.

Date of Birth: [REDACTED]

Search

Address: 306 21ST AVE
SAPT, SD

City/State/Zip

WFE/EBA

Phone: 605-285-1051

Language: English

Clear

Claim ID

BWE

EVE

Date

State

Program

Status

Claim:

1038094

03/29/2020

03/27/2021

SC

US

Open

Monetary:

High

WBA: 236

MBA: 5720

RBA: 5434

Fund: 21

Earning Allowance: 71.5

Payment Summary

BWE	Payment Type	File Date	Payment Date	Payment Status	Earnings	Deductions	Compensable Amount	Distributions	Amount Paid	Payment Method	Adjust	OP
05/16/2020	First Pay	05/29/2020	05/28/2020	Cleared	0.00		286.00	-0.00	886.00	Debit Card	Yes	
05/09/2020	Continued Week	06/19/2020			0.00		0.00	-0.00	0.00		Yes	
05/02/2020	Continued Week	06/19/2020			0.00		0.00	-0.00	0.00		Yes	
04/25/2020	Continued Week	06/19/2020			0.00		0.00	-0.00	0.00		Yes	
04/18/2020	Continued Week	06/19/2020			0.00		0.00	-0.00	0.00		Yes	
04/11/2020	Continued Week	06/19/2020			0.00		0.00	-0.00	0.00		Yes	
04/04/2020	Continued Week	06/19/2020			0.00		0.00	-0.00	0.00		Yes	

Payment Details

Payment History

Attachments

Processed Date

Non-Payment Reason

Payment Status

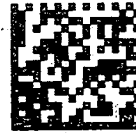
Determination Date

Nothing found to display

LSC G.V.



South Carolina
Department of Employment and Workforce



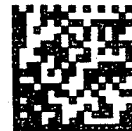
13354151

10/15/2020

GREG J GERMAN
306 21st Ave S Apt 5d
Myrtle Beach SC 29577-4628



South Carolina
Department of Employment and Workforce



13354151

DECISION OF APPEAL TRIBUNAL

Hearing Date: October 14, 2020

Appeal Number: 20-LA-042837

GREG J GERMAN
306 21ST AVE S APT 5D
MYRTLE BEACH SC 29577

CLAIMANT

APPELLANT: Claimant

SSN: XXX-XX-XXXX

CLAIMANT ID: XXXXXXXX

APPEARANCES

FOR THE CLAIMANT: Present

FOR THE EMPLOYER: NONE

ISSUE STATEMENT

The issue in this case is whether the claimant meets the eligibility requirements of the law.

FINDINGS OF FACT

The claimant appealed six separate determinations, all of which were mailed on July 23, 2020, which held him ineligible for benefits from March 29, 2020 to May 9, 2020, upon finding that he did not file weekly claims for benefits in a timely manner.

The claimant filed an initial claim for benefits on March 30, 2020. During the initial application process, the claimant was notified of his responsibilities which included being available for work, seeking work weekly, and filing weekly claims with the Department. The claimant filed weekly claims for the six benefit weeks ending April 4, 2020, April 11, 2020, April 18, 2020, April 25, 2020, May 2, 2020 and May 9, 2020, all on June 19, 2020.

The claimant asserts that he was not aware that he was required to filing weekly claims. He argues since the Department had waived the work search requirement, he was under the impression that he was only required to file an initial application for benefits. He asserts he had called the department multiple times between April 4, 2020 and June 19, 2020, and did not receive a response until he spoke with a Department representative who assisted him in filing the weekly claims for the six weeks in question.

South Carolina
Department of Employment and Workforce

The claimant argues that the Department issued the six claims adjudicator's determinations holding him ineligible for benefits because he had previously requested all documentation pertaining to his claim pursuant to the Freedom of Information Act (FOIA). He asserts that he received the unfavorable determinations on or about the same date, that he advised a Department representative that he was recording his telephone conversations with Department representatives.

REASONS

S.C. Code Ann. § 41-35-110(1) provides that to be eligible for benefits a claimant must file claims in accordance with the regulations prescribed by the Department. S.C. Code Reg. 47-21(E) provides that a claim is effective on the Sunday prior to the date it was filed. Regulation 47-32 provides that a claim is timely if received within fourteen calendar days of the claim week ending date.

The record reflects the claimant filed weekly claims for the six benefit weeks ending April 4, 2020, April 11, 2020, April 18, 2020, April 25, 2020, May 2, 2020 and May 9, 2020, all on June 19, 2020. During the initial application process, the claimant was notified of his responsibilities which included filing weekly claims with the Department. It was the claimant's responsibility to read the instructions on how to file a weekly claim for benefits. It is unfortunate, that the claimant did not file weekly claims within the requisite period. The testimony and evidence in the record does not support the claimant's contention that his denial for the six benefit weeks in question were for any reason other than his failure to file weekly claims within fourteen calendar days as required by law. The Tribunal finds the claimant has failed to show good cause for failing to file weekly claims as required for the benefit weeks in question.

DECISION

The Tribunal holds the claimant ineligible for benefits effective March 29, 2020 to April 4, 2020. This decision affirms the determination mailed July 23, 2020.

The Tribunal holds the claimant ineligible for benefits effective April 5, 2020 to April 11, 2020. This decision affirms the determination mailed July 23, 2020.

The Tribunal holds the claimant ineligible for benefits effective April 12, 2020 to April 18, 2020. This decision affirms the determination mailed July 23, 2020.

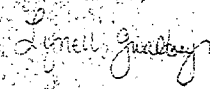
The Tribunal holds the claimant ineligible for benefits effective April 19, 2020 to April 25, 2020. This decision affirms the determination mailed July 23, 2020.

The Tribunal holds the claimant ineligible for benefits effective April 26, 2020 to May 2, 2020. This decision affirms the determination mailed July 23, 2020.

South Carolina
Department of Employment and Workforce

The Tribunal holds the claimant ineligible for benefits effective May 3, 2020 to May 9, 2020. This decision affirms the determination mailed July 23, 2020.

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. If the tenth day falls on a Saturday, Sunday or holiday, the appeal period is extended to the next business day. Your appeal may be filed by mail addressed to "Appellate Panel, Post Office Box 1752, Columbia South Carolina, 29202", or by fax at 803-737-3166. For additional information on filing an appeal, visit our web site at <https://dew.sc.gov/individuals/manage-your-benefits/appeals>.



Lynell Gwaltney
Administrative Hearing Officer

Decision Mailed: October 15, 2020

FAX COVER SHEET

TO: 803-737-3166

FROM: GREG GERMAN

RE: APPELLATE PANEL

CLAIMANT ID #

APPEALING: 20-LA-042837

Decision Date: 07/23/2020

FAXED/UPLOADED: 10/21/20

Mailing Date: 07/23/2020

Effective Date: 03/29/2020

Type: RR08 Category: Late Claim

Benefit Year Ends: 03/27/2021

RE: Claimant ID: [REDACTED]

SSN: XXX-XX-[REDACTED]

WBA: \$286.00

RBA: \$5,720.00

APPEAL TO THE APPELLATE PANEL

In Re: Greg German Appeal of All 7/23/2020 DEW Denials of Claims, including those for March 29-April 4, 2020; April 5-11, 2020; April 12-18, 2020; April 19-25, 2020; April 26-May 2, 2020; May 3-9, 2020;

COMES NOW, Petitioner Greg German, and files his appeal of the aforesaid denials of his claims.

1. BACKGROUND: Petitioner hereby incorporates by reference as if set out herein word for word all previous documents uploaded to DEW as if said documents were written out word-for-word herein.

2. In a nutshell, what happened is that Petitioner did not know he had to certify weekly benefits, as he had never filed for unemployment before in his life, and the DEW website, when not down, was confusing. Moreover, Petitioner

attempted to contact DEW numerous times during the relevant period and was unable to get a human to answer the phone.

3. EVIDENCE: Petitioner would provide his cellphone records to prove contacts or attempted contacts with DEW. Additionally, Petitioner has taped conversations of DEW representatives telling him that he would be paid for these claims very quickly.

PHONE CALL WITH DEW REPRESENTATIVE 6/19/20

DEW REPRESENTATIVE: "I submitted all of your certifications for those six weeks ... the whole month of April and two weeks in May, so when you look on your account it's going to say 'pending resolution of late claim.' So, what they're going to do is just verify the information we put in, and once it's cleared, you'll get a payment for all six weeks."

PHONE CALL WITH DEW REPRESENTATIVE 7/10/20

DEW REPRESENTATIVE: "You need to reactivate your claim. You need to do it on your portal.... Reactivate your claim because you were late in certifying benefits ... so you need to reactivate the claim...."

GREG: [After reactivating claim] "Okay, it says that I successfully submitted my application."

DEW REPRESENTATIVE: "Okay, that's all you need to do now."

GREG: "All right. Then that's it? Then, they'll send me payment for the weeks that I screwed up?"

DEW REPRESENTATIVE: "Yes, Sir, they will."

4. Additionally, Petitioner would cite the confusing nature of the DEW website, the mixed messages (including saying that a job search was unnecessary), the lack of any "tickler" system about certification of benefits.

5. For further evidence of the arbitrary and capricious nature of these denials, Petitioner would note that the taped conversations indicate that DEW was not straightforward with the Petitioner about his claims, about transferring his call to another employee (on multiple occasions), and about calling him back and/or having a Supervisor call him back.

6. For example, on July 23, 2020, Petitioner Greg German spoke with a DEW representative in the Appeals Department named Ray. When Petitioner asked to be connected to a Supervisor, the DEW representative indicated that because of the COVID Virus, that could not happen. However, he told Petitioner that he would have his Supervisor give me a call (and he made me repeat my telephone number for that purpose).

7. Ray also said that if his Supervisor could not call me back, then he (Ray) would.

8. None of that happened. Nobody from DEW called back that day. Instead, Petitioner found all six of his weekly claims denied on the website later that evening.

9. The DEW recorded message for people calling in during the Covid pandemic in April noted that any indications in an individual's portal that there were issues that might delay payment would be handled by an agent.

10. That, along with the fact that no human answered the telephone for nearly a month—the line simply clicked off—caused Petitioner to believe that he had done everything appropriately with regard to filing his claim.

11. Moreover, there was also a waiver of any "seeking work" requirement.

12. The first time Petitioner actually talked to a human at DEW was after payment had been approved and then delayed for at least 21 days. This person indicated that there was no problem with Petitioner's claim.

13. I do not have a recording of this call, as at that time, I expected DEW to make the payments that it was supposed to, and I believed that DEW agents would treat the claim fairly.

14. There is also the matter of the Petitioner seeking documents through Freedom of Information Act (hereinafter "FOIA") requests from DEW.

15. Upon information and belief, Petitioner has been treated unfairly and differently from other claimants because of this request for FOIA documents. This treatment has been arbitrary and capricious. DEW has failed to respond to this legitimate aspect of the request.

16. Notably, Petitioner requested FOIA documents that were in his file or related to his claim, including any memos or notes from DEW agents. None of this was produced. Only what appears in the Petitioner's portal was produced.

17. If DEW has taken negative action based upon a statutory right to request FOIA documents, then the actions of DEW go well beyond "arbitrary and capricious."

18. Alternatively, if DEW has taken negative action against Claimant based upon his exercise of the legal ability to record conversations over the telephone in South Carolina, then the actions of DEW go well beyond the arbitrary and capricious standard.

19. ARGUMENT. In the midst of a pandemic, DEW has acted arbitrarily and capriciously in denying Petitioner Greg German's claims. Even though the DEW website was frequently down, and even though the DEW website was very confusing, especially for a first-time user, the problem would have been alleviated

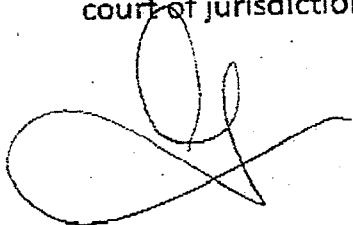
if anybody had answered the phones at DEW when Petitioner was trying to ensure that his claim was filed correctly and all the proper steps were taken.

20. DEW has explained to me that the COVID pandemic excuses these issues, but they won't let Petitioner take the same relief.

21. Additionally, DEW personnel have indicated that payment would be just around the corner, and that this has happened to other people.

22. This is not the way to treat an Army veteran and first- and only-time unemployment compensation claimant.

WHEREFORE, Petitioner prays for payment of the six weeks claimed, including the CARES Act money, and interest. Finally, Petitioner reserves the right to amend or supplement this appeal as needed, and he reserves the right to file suit in a court of jurisdiction.



GREG GERMAN, Petitioner
306 21st Avenue South
#5D
Myrtle Beach, South Carolina 29577
(843) 283-1892
thetortmaster@yahoo.com



South Carolina
Department of Employment and Workforce



13508740

10/23/2020

Claimant SSN: XXX-XX-XXXX

Claimant ID: XXXXXXXX

GREG J GERMAN
306 21st Ave S Apt 5d
Myrtle Beach SC 29577-4628

NOTICE OF APPEAL TO THE APPELLATE PANEL

APPEAL NO: 20-HA-001371

LIABLE EMPLOYER:

The Claimant in this case appealed the Appeal Tribunal Decision to the Appellate Panel for review.

The Panel will review your case as soon as possible and generally will issue a decision based solely on its review of the record on appeal. However, any party may request an in-person hearing, also known as an oral argument. Oral arguments are conducted only at the Appellate Panel office in Columbia, South Carolina. No additional evidence is permitted to be introduced at the oral argument. If you would like to request an oral argument, you must mail a written request to the Panel at P.O. Box 1752, Columbia, SC 29202, within seven (7) calendar days of the above date. The Panel, at its sole discretion, may grant or deny the request. If an oral argument is scheduled, a copy of the transcript from the Appeal Tribunal hearing and an Appellate Panel hearing notice will be mailed to you at a later date.

SPECIAL NOTE: The Appellate Panel can make its own factual findings and may reverse, affirm, or modify the decision on appeal. **Be advised that this may result in an increase or decrease of the disqualification.**

Claimants must continue filing a weekly claim pending the appeal to receive benefits. Any benefits received by the claimant may be subject to recovery if the Appeal Tribunal decision is reversed.

Higher Authority Appeals
803-737-0239

Recipient List

GREG J GERMAN
306 21st Ave S Apt 5d
Myrtle Beach, SC 29577-4628



South Carolina
Department of Employment and Workforce



13930326

11/17/2020

GREG J GERMAN
306 21st Ave S Apt 5d
Myrtle Beach SC 29577-4628

NOTICE OF MAILING OF APPELLATE PANEL DECISION

Attached is a copy of the final decision of SCDEW in this case. Any further appeal is to the South Carolina Administrative Law Court. To obtain judicial review of this decision, you must comply with the requirements of S.C. Code Ann. § 41-35-750 and the Rules of Procedure of the Administrative Law Court. The Court may require a filing fee.

The law requires that a Petition for Judicial Review must be filed with the Court and served on all parties and SCDEW within thirty (30) days from the mailing date of SCDEW's final decision (see the mailing date above).

The address of the Administrative Law Court is:

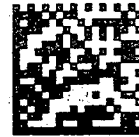
**S.C. Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia SC 29201**

Service of the Petition on SCDEW must be addressed and mailed to:

**Office of General Counsel
S.C. Department of Employment and Workforce
Post Office Box 8597
Columbia SC 29202**

SCDEW cannot advise a party on any legal matter. For legal advice or assistance in filing an appeal to the Administrative Law Court, you should consult an attorney licensed to practice law in South Carolina.

South Carolina
Department of Employment and Workforce



13930326

Office of Appellate Panel

GREG J GERMAN)
306 21ST AVE S APT 5D)
MYRTLE BEACH SC 29577)
Claimant SSN: XXX-XX-XXXX
Claimant ID: XXXXXXXX

**APPELLATE PANEL
DECISION**

Appellant: GREG J GERMAN

Appeal Number: 20-HA-001371

Appellant: Claimant

The Claimant filed for unemployment benefits on March 30, 2020. Six claim adjudicator's determinations were mailed on July 23, 2020, holding the Claimant ineligible for benefits, effective March 29, 2020, through May 9, 2020, upon finding the Claimant failed to file his weekly claims in a timely manner. The Claimant appealed the determinations to the Appeal Tribunal. After an evidentiary hearing, the Appeal Tribunal affirmed the determinations. The Claimant appealed the Appeal Tribunal decision on October 21, 2020 to the Appellate Panel.

The Appellate Panel issued its decision upon review of the record on appeal. We affirm the Appeal Tribunal decision. The Claimant is ineligible for benefits effective March 29, 2020, through May 9, 2020, upon finding the Claimant failed to file weekly claims in a timely manner.

BACKGROUND

The Claimant filed a claim for benefits on March 30, 2020. The Department provided the Claimant instructions to file each week for benefits when he filed his initial claim. The Claimant maintains he was unaware he needed to file claims for benefits in order to receive benefits. He believed that because he was not required to conduct a weekly work search on the South Carolina Works Online Service (SCWOS), he did not need to do anything to draw benefits after he filed the initial application. He contended that he called the Department on multiple occasions after April 4, 2020, inquiring about his benefits; however, a review of Department records shows no notes regarding attempted contacts during the period cited by the Claimant. He filed weekly claims for the six weeks in question on June 19, 2020.

South Carolina
Department of Employment and Workforce

FINDINGS

S.C. Code Ann. §41-35-110 provides that an individual must file timely weekly claims in order to be eligible for benefits for each week claimed.

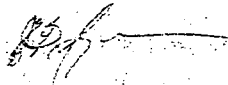
S.C. Code Reg. 47-21 (E) provides that a claim is effective on the Sunday prior to the date it was filed. Regulation 47-32 provides that a claim is timely if received within fourteen calendar days of the claim week ending date.

The record establishes the Claimant failed to file a timely claim for benefits for the six claim weeks from March 29, 2020, through May 9, 2020. The greater weight of the credible evidence shows the Claimant did not attempt to file any weekly certifications until more than a month after the Claimant initially filed his claim for benefits. The Claimant did not file a claim for the weeks in question as required by law. Therefore, we find the Claimant ineligible for benefits effective March 29, 2020, through May 9, 2020.

DECISION

The Appeal Tribunal decision mailed October 15, 2020, is affirmed. The Claimant is ineligible for benefits effective March 29, 2020, through May 9, 2020, upon finding the Claimant failed to file weekly claims in a timely manner.

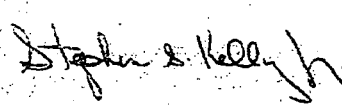
**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE
APPELLATE PANEL**



E.B. AYERS



TIM DANGERFIELD



STEPHEN S. KELLY, JR.

Date Mailed: 11/17/2020

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

GREG J. GERMAN,

Appellant,

vs.

SOUTH CAROLINA DEPT.

OF EMPLOYMENT AND

WORKFORCE,

Respondent,

DOCKET NO. 20-ALJ-22-0340-AP

APPELLANT'S BRIEF

**APPEAL FROM SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE DECISIONS**

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Attorney for Appellee/Respondent

STATEMENT OF THE ISSUES ON APPEAL

1. Whether the decision of the DEW Appellate Panel and Appeal Tribunal was arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion or failed to follow proper procedures.
2. Whether the Appellee denied unemployment benefits in violation of constitutional or statutory provisions, in that DEW denied said benefits because Appellant exercised his right to request documents from the Agency via FOIA and record the words of the Agency.
3. Whether the Appellee denied Federal CARES Act payments in excess of the statutory authority of the agency.
4. Whether the DEW Appellate Panel and Appeal Tribunal decisions were clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, especially given that DEW provided no evidence.

STATEMENT OF THE CASE

In a nutshell, what happened is that Appellant was laid off from work at Red Roof Inn in Myrtle Beach for seven (7) weeks because of the Coronavirus and the concomitant mandatory lockdown ordered by the Governor of South Carolina.

Appellant did not know he had to certify weekly benefits, as he had never filed for unemployment before in his life, and the DEW website, when not down, was confusing. Moreover, Appellant attempted to contact DEW numerous times during the relevant period and was unable to get a human to answer the phone.

When DEW finally provided somebody to answer the phones, the DEW representative told Appellant that his file looked fine. When Appellant called DEW back again because no payment of unemployment benefits had been made, another DEW representative informed him of the need to certify on a weekly basis, which is what Appellant had just learned from his neighbor.

By that time, Appellant was allowed to certify all seven weeks, but he was eventually paid for only one week.

Appellant received one payment of \$886.00, and was not paid the \$5,316.00 for the other six (6) weeks.

During the DEW appellate process, your Appellant offered to provide his cellphone records to prove contacts and attempted contacts with DEW.

Additionally, Petitioner offered taped conversations of DEW representatives telling him that he would be paid for these claims very quickly. For example,

PHONE CALL WITH DEW REPRESENTATIVE 6/19/20

DEW REPRESENTATIVE: "I submitted all of your certifications for those six weeks ... the whole month of April and two weeks in May, so when you look on your account it's going to say 'pending resolution of late claim.' So, what they're going to do is just verify the information we put in, and once it's cleared, you'll get a payment for all six weeks."

PHONE CALL WITH DEW REPRESENTATIVE 7/10/20

DEW REPRESENTATIVE: "You need to reactivate your claim. You need to do it on your portal.... Reactivate your claim because you were late in certifying benefits ... so you need to reactivate the claim...."

GREG: [After reactivating claim] "Okay, it says that I successfully submitted my application."

DEW REPRESENTATIVE: "Okay, that's all you need to do now."

GREG: "All right. Then that's it? Then, they'll send me payment for the weeks that I screwed up?"

DEW REPRESENTATIVE: "Yes, Sir, they will."

Additionally, Appellant cited the confusing nature of the DEW website, the mixed messages (including saying that a job search was unnecessary), the lack of any "tickler" system about certification of benefits.

DEW was not straightforward with the Petitioner about his claims, about payment of his claims, or about the reasons for the denial of his claims.

For example, on July 23, 2020, Appellant spoke with a DEW representative in the DEW Appeals Department named Ray. Appellant mentioned that he had recorded conversations with DEW representatives who said he would get paid. Appellant also noted that he had filed Freedom of Information Act requests with DEW. Ray, the DEW representative, said that his supervisor or he would call back that day.

That didn't happen. Nobody from DEW called back that day. Instead, Appellant found all six of his weekly claims denied on the website later that evening.

UNDISPUTED FACTS:

A. Appellant did not certify six (6) weeks of unemployment until after the fact.

See Record at 037, ¶ 2.

B. Appellant tried numerous times to reach DEW during that relevant time frame to ensure his application for benefits was correct, but he was only able to reach a recorded message that hung up on him. The recorded message also noted

that the DEW website would show problems with the claim, but not to worry, a DEW representative would fix it. See Record at 037, ¶ 2.

C. When Appellant finally reached a live person at DEW, that representative said his claim was fine, and that he should expect payments soon. See Record at 103, ¶ 12.

D. When Appellant called back because there were no payments, a live DEW representative finally noted that the weeks had to be certified. At that point, Appellant certified the six (6) weeks. See Record at 101, ¶ 3 (phone call of 6/19/20).

E. The DEW representative during this call affirmed that Appellant would shortly begin to receive payments for the six (6) weeks. See *id.*

F. The DEW representative did not read the portion of the "determination" for certification that dealt with knowing that the claim could be held as untimely. See Record at 058, ls. 23-29 (Regarding the individual one-page "Determinations" for each claim: "The agent who talked to me on the telephone did not ask me the third and final question on each of those six individual determinations....").

G. When payments were again not forthcoming, Appellant called back to DEW, and the representative said he just needed to reactivate his claim, which he did.

She also affirmed that Appellant would be paid for the six (6) weeks. Record at 038.

H. When payment still did not happen, Appellant spoke to "Ray" in the Appeals department at DEW, informing the DEW representative that he had filed a FOIA request and had recorded conversations with DEW representatives. Ray promised to have somebody call back that day. See Record at 039.

I. Nobody called back that day. Instead, DEW chose that exact time to deny all six (6) weeks of unemployment without providing a reason. Record at 039.

TIMELINE AND OTHER FACTS REQUIRED BY THE RULES OF PROCEDURE:

March 30, 2020. Claim filed by Appellant.

April 14, 2020. Date Appellee determined Appellant was eligible for benefits.

July 23, 2020. Date Appellee decided against six (6) weeks of benefits.

July 24, 2020. Date Appellant filed appeal with DEW.

October 14, 2020. Date of Hearing on Appellant's DEW appeal.

October 15, 2020. Date of Order denying benefits on appeal.

October 21, 2020. Date Appellant filed appeal to DEW Appellate Panel.

November 17, 2020. Date Appellee DEW filed their final order denying benefits.

ARGUMENT

I. WHETHER THE DECISION OF THE DEW APPELLATE PANEL AND APPEAL TRIBUNAL WAS ARBITRARY OR CAPRICIOUS OR CHARACTERIZED BY ABUSE OF DISCRETION OR CLEARLY UNWARRANTED EXERCISE OF DISCRETION OR FAILED TO FOLLOW PROPER PROCEDURES.

The record on appeal shows that the agency acted arbitrarily and capriciously in that it provided a confusing system for a first-time user to navigate while at the same time offering no assistance to him.

If a capable DEW agent had been available to answer questions on the phone over the first month and one-half of the Covid lockdown, this situation would not have occurred. Moreover, when a DEW agent was finally available to answer a phone, she found no fault with Appellant's application for unemployment benefits.

These are undisputed facts in the record.

The arbitrary and capricious nature of the decision was also evidenced by other factors, including (a) the two subsequent DEW representatives who said the Appellant would receive the benefits requested, and (b) the fact that the Appellant's claims were denied immediately after the agency became aware that Appellant had filed a FOIA request and taped conversations of DEW representatives.

The unrebutted evidence in the record proves that approval of the six (6) weeks of unemployment benefits was a done deal according to two DEW representatives. Yet, somehow that changed *immediately* after Appellant mentioned that he had filed a FOIA request and had taped conversations of DEW agents.

The Appellee had discretion to provide the statutory benefits, but abused that discretion by not taking into account that it offered Appellant no assistance to ensure his application for benefits was prepared properly.

In fact, what they provided was a very confusing system—especially for a first-time claimant—and absolutely no assistance with the claim, while also sending mixed messages about (a) not having to seek employment during the government-mandated Coronavirus lockdown, and (b) stating that the claims on

the website would be marked as in error, even though they weren't, and that a DEW agent would fix any issue.

It is like they let me jump into the deep end of the pool knowing that I might not be able to swim, while having no life guard or swim instructor present.

Additionally, the Appellee failed to follow proper procedures in providing unemployment compensation in that proper procedures would have included an agent available by telephone or in person to work with an applicant.

The Appellee DEW has argued that Appellant did not follow the proper procedures, but the agency also failed even the most objective reasonable duty of properly offering advice to an applicant.

That failure to follow proper procedures didn't happen just once in failing to answer their telephones for a month-and-a-half, but also when a DEW agent finally got on the line and said the Appellant's application was fine, and then for a third and fourth time when Appellee's representatives stated that everything was fine and payment should be expected within days.

DEW may argue that it could not follow proper procedure because of the Covid lockdown, but that should not be used as a shield for them and a weapon against me. Appellant's problems were also caused by the Coronavirus lockdown.

The standard for judicial determination of a state agency's decision is set by statute. According to that statute a court,

" ... 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."

SC Code § 1-23-610(B)(2013). *See also Deese v. State Bd. of Dentistry*, 286 S.C. 182, 184-85, 332 S.E.2d 539, 541 (Ct. App. 1985)("A decision is arbitrary if it is

without a rational basis, is based alone on one's will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards.").

II. WHETHER THE APPELLEE DENIED UNEMPLOYMENT BENEFITS IN VIOLATION OF CONSTITUTIONAL OR STATUTORY PROVISIONS, IN THAT DEW DENIED SAID BENEFITS BECAUSE APPELLANT EXERCISED HIS RIGHT TO REQUEST DOCUMENTS FROM THE AGENCY VIA FOIA AND RECORDED THE WORDS OF THE AGENCY.

The unrebutted evidence in the record shows that Appellant was told twice—three times if you include the first agent who said that the application looked fine—by authorized representatives of DEW that he would receive payment for the six (6) weeks of unemployment benefits, but then, on the day that he mentioned to another DEW agent that he had filed FOIA requests and had taped conversations, his requests were *immediately* denied.

The timeline of events show that weeks and weeks passed with assurances that payment would be received, but suddenly, on one day, that hope was slammed shut.

DEW denied the benefits.

That was the day Appellee learned of the FOIA requests and taped conversations.

DEW had the opportunity to introduce live testimony, documentation or other evidence into the record that their knowledge of the FOIA requests or the taping of the conversations did not affect their decision-making process.

They did not.

At the first DEW appeal hearing, the agency could have provided this evidence, but they did not.

They were fully informed that this was an issue on appeal, as it was stated clearly in the record. Record at 042-046; *see also id.* at 103-04.

Appellant exercised his rights under S.C. Code Ann. §30-4-10, et seq., and the agency retaliated against him because of it.

The South Carolina General Assembly sought specifically to make records available to citizens "at a minimum cost or delay to the persons seeking access to public documents...." S.C. Code Ann. §30-4-10.

The legislature did not intend for such requests to cost six (6) weeks of unemployment benefits, a sum of \$5,316.00.

III. WHETHER THE APPELLEE DENIED FEDERAL CARES ACT PAYMENTS IN EXCESS OF THE STATUTORY AUTHORITY OF THE AGENCY.

Besides the funds due through the state- and employer-funded unemployment system, the Appellee also withheld Federal funds under the CARES Act.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was ratified to, as the Treasury Department said on its website, "provide fast and direct economic assistance for American workers...."

Under the CARES Act, unemployed workers were to receive an additional \$600.00 per week while they were out of work. This was to assist states so that they "can provide benefits quickly." See U.S. Dept. of Labor, News Release (April 2, 2020).

Via the CARES Act, states were afforded the ability to "[p]rovide for up to 13 weeks of benefits to individuals who ... have no rights to regular UC under any other state or federal law...." Pandemic Emergency Unemployment Compensation, Sec. 2107. (The "UC" in the quote above means "unemployment compensation," of course.).

In effect, DEW acted as steward for Federal funds of \$600.00 per week, and even though the federal directive was to "provide benefits quickly," it failed to provide these funds to Appellant. Even if their decision to deny the state- and

employer-supported compensation wasn't arbitrary and capricious or an abuse of discretion, they were told by the Federal government to disburse those funds even if the individual had "no rights to regular UC under any other state ... law."

IV. WHETHER THE DEW APPELLATE PANEL AND APPEAL TRIBUNAL DECISIONS WERE CLEARLY ERRONEOUS IN VIEW OF THE RELIABLE, PROBATIVE, AND SUBSTANTIAL EVIDENCE ON THE WHOLE RECORD, ESPECIALLY GIVEN THAT DEW PRODUCED NO EVIDENCE.

The Appellee did not provide any evidence for why it could not pick up a phone to answer a call for a month-and-one-half.

The Appellee did not provide any evidence for why one of its representatives, at a time that would have done at least some good, found no fault with Appellant's application for benefits.

The Appellee did not provide any evidence for why two of its agents—representatives of the Department of Employment and Workforce—told Appellant in no uncertain terms that he would receive the six (6) weeks of unemployment compensation.

The Appellee did not provide any evidence for why—after months of delaying payments—it suddenly chose the day it was informed about FOIA requests to deny Appellant's claims.

The Appellee did not provide any evidence for why it should be granted a mulligan because of the Coronavirus lockdown, but the Appellant should not receive the same consideration.

The reliable and probative evidence in the DEW appeals came from Appellant. He provided sworn testimony. He provided the taped conversations of DEW agents in which they stated that payments would be forthcoming. If there had been no tapes of those conversations, would the agency have denied that they happened?

But they couldn't. And they didn't.

Appellee could not provide any evidence to rebut the fact that an authorized representative of DEW told Appellant there was nothing wrong with his claim, or that two additional authorized representatives of DEW told Appellant that he would get the benefits soon.

CONCLUSION/PRAYER

Appellant prays that this Administrative Law Court finds in his favor, orders DEW to pay the six (6) weeks of unemployment compensation and CARES Act money to him, a total of \$5,316.00 with interest, and prays for such other and further relief the Court may justly decide.

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Appellant

THE STATE OF SOUTH CAROLINA
In The Administrative Law Court

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Appellate Panel

Case No. 20-ALJ-22-0340-AP

Greg German,

Appellant,

v.

South Carolina Department of Employment
and Workforce,

Respondent.

BRIEF OF RESPONDENT

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STATEMENT OF THE ISSUES ON APPEAL

- I. Does substantial evidence support the Appellate Panel's finding that Appellant did not meet the eligibility requirements to receive unemployment insurance benefits when Appellant did not file timely weekly claims for benefits as required by law?
- II. Is the Appellate Panel's decision arbitrary or capricious, or otherwise affected by an error of law, when it is supported by substantial evidence in the record and based on clear South Carolina law?

STATEMENT OF THE CASE

Appellant Greg J. German filed a claim for unemployment insurance (UI) benefits with Respondent South Carolina Department of Employment and Workforce (Department) on March 30, 2020. (R.pp.4-7). The Department mailed a determination on April 15, 2020, holding Appellant eligible to receive UI benefits without disqualification effective March 29, 2020. (R.p.12-13).

Appellant did not file weekly claims for the six claim weeks from the claim week ending April 4, 2020, through the claim week ending May 9, 2020, until June 19, 2020. (R.p.60, lines 17-21; p.94). Appellant provided statements to the Department on June 19, 2020, explaining why he did not file claims for those weeks until that day. (R.pp.14-23). The Department mailed six determinations on July 23, 2020, that collectively held Appellant ineligible to receive benefits for the six claim weeks from the claim week ending April 4, 2020, through the claim week ending May 9, 2020, upon a finding Appellant did not file timely weekly claims. (R.pp.24-35).

~~Appellant appealed the claims adjudicator's determinations to the Department's~~
Appeal Tribunal (Tribunal). (R.pp.36-46). The Tribunal held an evidentiary hearing on October 14, 2020. (R.pp.47-94). The Tribunal mailed a decision on October 15, 2020, affirming the claims adjudicator's determinations by finding that Appellant did not file timely weekly claims. (R.pp.95-98). Appellant appealed to the Department's Appellate Panel (Panel). (R.pp.99-105). The Panel issued its decision on November 17, 2020, affirming the Tribunal's decision that Appellant did not meet the eligibility requirements

under the law. (R.pp.1-3; pp.108-110). Appellant now appeals the Department's final decision to the Administrative Law Court.

FACTS

Appellant initially filed his claim for UI benefits on March 30, 2020. (R.pp.4-7; p.59, lines 20-24). The claims application required Appellant to affirmatively acknowledge the following statement: "You must actively search for suitable work each week **that you file a weekly certification for unemployment insurance benefits** by performing at least two (2) job searches through the South Carolina Works Online System (SCWOS), so that search can be electronically verified." (R.p.7; p.92) (emphasis added). The Department mailed a determination on April 15, 2020, holding Appellant eligible to receive UI benefits effective March 29, 2020. (R.pp.12-13). This determination included the following statement: "SECTION 41-35-110 provides that a claimant is eligible for benefits for any week **only if the week is claimed according to the regulations...**" (R.p.13).¹ (emphasis added). Appellant, however, did not comply with the instructions provided on his claim ~~application and on his determination that he must timely file a weekly certification in order~~ to receive UI benefits for a given week. Instead, Appellant did not file claims for UI benefits for the six claim weeks from the claim week ending April 4, 2020, through the claim week ending May 9, 2020, until June 19, 2020. (R.p.60, lines 17-21; p.94).

¹ This advisement is included on every job separation and weekly eligibility determination the Department issues, including each of the six determinations that held Appellant ineligible for benefits because he did not file timely claims for benefits. (R.pp.71-82).

Appellant did not file timely weekly claims for benefits for those weeks because, according to him, he was unaware of the requirement to file a claim each week, despite the prior written notifications:

All I thought was necessary was filing a claim, and then seeking on a weekly bases employment. So one, file a claim; two, on a weekly basis seek employment. (R.p.60, lines 26-29).

I had no idea there was a certification requirement. (R.p.61, lines 14-15).

I would agree that I did not certify six weeks of my unemployment within a couple of weeks of those dates. (R.p.67, lines 11-13)

Appellant maintains that he was also confused by the fact that the Department waived the regulation requiring claimants to perform two online job searches each week on SCWOS. (R.p.60, lines 10-16; p.61, lines 1-4; p.62, lines 3-8; p.64, lines 10-12).² Finally, Appellant asserts that he made multiple attempts to contact the Department to check on his claim status from early April until June, but that each time he only received a recorded message before the call hung up. (R.p.61, lines 5-9; p.61 lines 24-25). In his first written communication to the Department about his late weekly claims for benefits,

however, Appellant asserted that "I did not certify weekly, as I did not know it was required. I saw that it took 21 days from "Decision Date" until I might get paid unemployment, **so I waited for that date before I started to ask questions.** When I tried to call, the DEW phone line just clicked me off." (R.p.14) (emphasis added). Further,

² Governor McMaster issued Executive Order 2020-10 on March 17, 2020, authorizing cabinet agencies to waive or suspend any regulations that would impede or delay the state's response to the COVID-19 pandemic. To promote social distancing, the Department utilized this authority to suspend the regulatory requirement for claimants to perform two online job searches since many claimants relied on public buildings to access computers.

Appellant admitted he kept his customary night hours during his period of unemployment, which meant that he could not talk to people on a daily basis and he frequently visited the Department's website at times when the website was down for maintenance. (R.p.61, lines 16-18; p.67, p.19-22).

The Panel evaluated the evidence and determined the following:

...The Department provided the Claimant instructions to file each week for benefits when he filed his initial claim. The Claimant maintains he was unaware he needed to file claims for benefits in order to receive benefits. He believed that because he was not required to conduct a weekly work search on the South Carolina Works Online Service (SCWOS), he did not need to do anything to draw benefits after he filed the initial application. (R.p.2; p.109)

The record establishes the Claimant failed to file a timely claim for benefits for the six claim weeks from March 29, 2020, through May 9, 2020. The greater weight of the credible evidence shows the Claimant did not attempt to file any weekly certifications until more than a month after the Claimant initially filed his claim for benefits. The Claimant did not file a claim for the weeks in question as required by law. Therefore, we find the Claimant ineligible for benefits effective March 29, 2020, through May 9, 2020. (R.p.2; p.110).

ARGUMENT

I. Standard of Review

The Department is an agency governed by the Administrative Procedures Act (APA). *See Gibson v. Florence Country Club*, 282 S.C. 384, 386, 318 S.E.2d 365, 367 (1984) (finding the Department's predecessor, the Employment Security Commission, subject to the APA). Under the APA, a reviewing court:

[M]ay 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:

- (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. § 1-23-380(5).

This standard of review is referred to as the "substantial evidence" rule:

"Substantial evidence" is something less than the weight of the evidence; it is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached in order to justify its action. The substantial evidence rule does not allow judicial fact-finding, or the substitution of judicial judgment for agency judgment.

Todd's Ice Cream, Inc. v. S.C. Emp't. Sec. Comm'n, 281 S.C. 254, 258, 315 S.E.2d 373, 375 (Ct. App. 1984); *see also Friends of Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010) (Substantial evidence is "evidence which . . . would allow reasonable minds to reach the same conclusion as the agency"). "An abuse of discretion

occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006).

Furthermore, the reviewing court "may not substitute its judgment . . . as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-610(B). "The findings of the agency are presumed correct and will be set aside only if unsupported by substantial evidence." *Kearse v. State Health & Human Serv. Fin. Comm'n*, 318 S.C. 198, 200, 456

S.E.2d 892, 893 (1995). The possibility of drawing two inconsistent conclusions from the evidence does not mean the agency's conclusion is unsupported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). Finally, the Appellant bears the burden "to prove convincingly that the agency's decision is unsupported by the evidence." *Id.*

II. Substantial evidence supports the Panel's decision that Appellant did not meet the eligibility requirements to receive UI benefits.

A. Eligibility requirements.

It is settled law in South Carolina that a UI claimant bears the burden of proof "to show that he met the benefit eligibility conditions and he was available for work." See *Hyman v. S.C. Emp't Sec. Comm'n*, 234 S.C. 369, 373, 108 S.E.2d 554, 556 (1959); *Wellington v. S.C. Emp't Sec. Comm'n*, 281 S.C. 115, 117, 314 S.E.2d 37, 38 (Ct. App. 1984); *Murphy v. S.C. Emp't Sec. Comm'n*, 328 S.C. 542, 544, 492 S.E.2d 625, 626-27 (Ct.App.1997) (citing *Wellington*).

An individual is eligible to receive UI benefits for a claim week "only if the department finds he has made a claim for benefits with respect to that week pursuant to regulations prescribed by the department." S.C. Code Ann. § 41-35-110(1). A weekly claim for UI benefits is timely filed "if received within fourteen (14) calendar days of the claim week ending date." S.C. Code Ann. Regs. § 47-32(A).

B. Appellant did not file timely weekly claims for benefits.

Substantial evidence in the record as a whole supports the Panel's finding that Appellant failed to establish he met the eligibility requirements under the law to receive UI

benefits for the six claim weeks from the claim week ending April 4, 2020, through the claim week ending May 9, 2020. It is undisputed that Appellant did not file claims for those weeks until June 19, 2020, more than two months after the earliest claim week ended and more than a month after the latest claim week ended. (R.p.60, lines 17-21; p.94). It is further undisputed that Appellant did not file timely claims for those weeks because he did not believe he had to file a claim each week despite being provided written notification of the requirement on at least two occasions. (R.p.7; p.13; p.60, lines 26-29; p. 61, lines 14-15; p. 67, lines 11-13; p.92). Because regulation 47-32(A) requires a claimant to file a claim for benefits within fourteen days of the end of the claim week, Appellant's filings for all six claim weeks on June 19, 2020, more than five weeks after the last claim week ending date, were untimely.

Appellant essentially argues that he had good cause for filing late claims and the Department should have accepted his late filings under regulation 47-32(A). This argument is founded entirely on his claim that he was ignorant of the weekly filing requirement. ~~However, it has long been the law in this state that claiming ignorance of the law is no~~ excuse. See *Corley v. Atl. Life Ins. Co.*, 179 S.C. 95, 183 S.E. 596, 598 (1936) ("The fact that the insured may not have been aware of this law does not excuse his failure to comply therewith."); *Fairey v. Strange*, 115 S.C. 10, 104 S.E. 325, 327 (1920) ("While there is no presumption that every one knows the law, still ignorance of the law excuses no one."). Thus, even if Appellant was truly ignorant of the law requiring him to file weekly certifications, that ignorance is no excuse. Even if Appellant was unclear regarding the weekly certification requirement, despite the two notices provided during the initial claims

process, Appellant could have read the clear and simple language in regulation 47-32(A) and should have had no doubt as to the requirement. Accordingly, Appellant's alleged ignorance of the law is no excuse, and this Court should affirm the Panel's decision.

Further, Appellant argues he had good cause for filing late claims because he alleges he was unable to speak to a Department representative despite numerous phone calls and because he was confused by the Department's waiver of the online work search requirement. (App.Br.pp.7-11). *See* S.C. Code Ann. Regs. § 47-32(A) ("The claims representative in the Department office may accept any late filing of a continued weekly claim for good cause shown"). The Panel, however, properly exercised its discretion and authority as fact-finder and determined Appellant failed to show good cause for his failure to file timely weekly claims. Specifically, the Panel found Appellant's failure to file timely weekly claims was not due to his alleged inability to speak with a Department representative but rather because Appellant erroneously believed he did not need to file a claim each week that he wanted to receive benefits³. In essence, Appellant's own ~~negligence in failing to read and understand the requirement to file weekly claims that he~~ was provided at least twice, and Appellant's decision to wait at least twenty-one days after his determination was mailed before contacting the Department, were the but-for causes of

³ Although the Panel did not reference the good cause provision under S.C. Code Ann. § 47-32(A), the Panel implicitly determined Appellant did not have good cause for filing late claims by finding Appellant did not believe he had to file a claim each week and would essentially receive benefits every week without doing anything other than filing his initial application. (R.p.2; p.109).

his failure to file timely weekly claims for benefits. (R.p.7; p.13; p.60, lines 10-16; p.61, lines 1-4; p.92).⁴

Finally, the good cause provision within S.C. Code Ann. Regs. § 47-32(A) is discretionary because the regulation provides that the Department “**may** accept any late filing.” (Emphasis added). Indeed, “[t]he use of the word ‘may’ signifies permission and generally means that the action spoken of is optional or discretionary unless it appears to require that it be given any other meaning in the present statute.” *Kennedy v. S.C. Ret. Sys.*, 345 S.C. 339, 352-53, 549 S.E.2d 243, 250 (2001). The Panel reasonably exercised its discretion to determine that Appellant did not have good cause for filing untimely weekly claims for benefits. Substantial evidence in the record supports the Panel’s decision. Appellant was provided written notice on at least two occasions. (R.p.7; p.13; p.92). Both notifications included clear statements that he had to file a weekly certification for benefits each week. *Id.* Moreover, Appellant’s confusion regarding the waiver of the requirement to search for work online each week does not excuse his failure to file a claim for benefits. ~~When he filed his initial claim for benefits, Appellant acknowledged understanding two~~ clear requirements: (1) file a weekly certification; and (2) perform two job searches via SCWOS. *Id.* The waiver of the online work search requirement did not eliminate the foundational requirement to file a claim each week to receive benefits. Indeed, Appellant’s

⁴ Though the Panel did not specifically cite Appellant’s failure to understand the weekly claim filing requirement, or the twenty-one day delay in contacting the Department, there is evidence in the record on appeal that Appellant’s failure to understand and promptly act on the information the Department provided him contributed to his failure to file timely weekly claims for UI benefits. The Department presents this fact as additional sustaining grounds in support of the Panel’s decision. See *I’On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 526 S.E.2d 716 (2000).

belief that he did not have to do anything beyond filing his initial claim for benefits is absurd on its face. Under Appellant's assumption, the Department would have to pay benefits each week to a claimant without knowing whether the claimant had become reemployed or if the claimant met the eligibility conditions required by law.

The Panel's determination that Appellant did not file timely weekly claims was reasonable and supported by Appellant's own testimony. Documents show that the Department provided Appellant with two separate notices that he had to file a claim for benefits each week. (R.p.7; p.13; p.92). Appellant testified that he did not fully understand one of the notices and did not know he had to file a claim each week. (R.p.60, lines 10-16; p.60, lines 26-29; p. 61, lines 14-15; p. 67, lines 11-13). Appellant further informed the Department that he did not attempt to inquire about his claim until at least twenty-one days after the determination was mailed on April 15, 2020, which would make his first alleged attempt in early to mid-May, well after the end of most of the claim weeks he is now trying to claim. (R.p.14). Therefore, substantial evidence supports the Panel's findings, and this Court should affirm.

III. The Panel's decision was not arbitrary or capricious or otherwise affected by an error of law.

Appellant raised four arguments in his Appellant's Brief. While none of Appellant's arguments establish that the Panel committed an error of law and should be disregarded by this Court, each are addressed below.

A. The Panel's decision was not arbitrary or capricious, characterized by an abuse of discretion, or made upon unlawful procedure.

Appellant essentially argues that the Panel's decision was arbitrary or capricious, or made upon unlawful procedures, because the Department "provided a confusing system for a first-time user to navigate." (App.Br.p.7). Appellant's argument is wholly without merit because it erroneously tries to assign to the Panel alleged deficiencies in the customer service the Department provided to Appellant prior to the Appellant filing an appeal.

This Court may reverse an administrative decision only if "substantial rights of the appellant have been prejudiced **because the administrative findings, inferences, conclusions, or decisions are:** ... (c) made upon unlawful procedure; ... or (f) arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion." S.C. Code Ann. § 1-23-380(5) (emphasis added). This Court's review is therefore limited solely to whether the **decision** under appeal was made upon unlawful procedure or was arbitrary or capricious.

The Panel's decision under review was made upon the proper and lawful procedure. Pursuant to S.C. Code Ann. § 41-35-690, the "sole and exclusive appeal procedure" for ~~disputing the Department's decision on UI benefits is for an individual to appeal a~~ determination to the Tribunal, then to the Panel, and then to this Court. That procedure was followed precisely in this case. Appellant has not argued that the Panel based its decision on erroneously admitted or omitted evidence or that the Panel otherwise committed any procedural errors. The only unlawful procedures alleged by Appellant are a confusing UI system and poor customer service he encountered months before he ever filed an appeal. Those are not "unlawful procedures" that are grounds for reversal of an administrative decision as contemplated by Section 1-23-380(5).

Moreover, the Panel's decision is not arbitrary and capricious when it is supported by substantial evidence in the record. *See Deese v. S.C. State Bd. of Dentistry*, 286 S.C. 182, 184-85, 332 S.E.2d 539, 541 (Ct.App.1985) ("A decision is arbitrary if it is without a rational basis, is based alone on one's will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards."). As argued above, the Panel's decision was based on clear South Carolina law and supported by substantial evidence in the form of Appellant's own testimony and documents entered into evidence. Appellant bears the burden of showing that he met the eligibility requirements for receiving UI benefits each week. *See Hyman, supra*. To receive UI benefits for a given week, Appellant was required to file a claim within fourteen days of the week ending date. *See* S.C. Code Ann. § 41-35-110(1); S.C. Code Ann. Regs. §47-32(A). The record is undisputed that Appellant failed to do so. (R.p.60, lines 17-21; p.94). Moreover, Appellant failed to file timely claims because he did not read and understand the information the Department provided him and ~~because he waited a period of time to contact the Department to inquire about his benefits.~~ (R.p.60, lines 10-16; p.60, lines 26-29; p. 61, lines 14-15; p. 67, lines 11-13). Therefore, the Panel's decision was not arbitrary and capricious because it was made upon the rational basis of applying clear South Carolina law to a largely undisputed record.

- B. The Panel did not err by refusing to accept Appellant's speculation that he was denied benefits because he made a request for records under the Freedom of Information Act (FOIA) and had recorded customer service calls.**

Appellant argues that the Panel erred by refusing to find that the Department denied Appellant benefits because he made a FOIA request and recorded calls with customer service representatives. (App.Br.p.11). Appellant's argument is based on nothing more than rank speculation and coincidence, and the Department categorically denies this baseless allegation.

Essentially, Appellant contends that the Department denied his eligibility for benefits on July 23, 2020, because he told an Appeals representative that day that he had submitted a FOIA request and had recorded prior calls with customer service representatives: "The timeline of events show that weeks and weeks passed with assurances that payment would be received, but suddenly, on one day, that hope was slammed shut. DEW denied the benefits. That was the day Appellee learned of the FOIA requests and taped conversations." (App.Br.pp.11-12). Appellant's conspiracy theory, however, suffers from a fatal flaw. The Department learned of Appellant's FOIA request a month earlier, when he filed it on June 17, 2020. (R.pp.44-45). Moreover, the Department actually ~~provided Appellant with documents responsive to his FOIA requests prior to July 23, 2020.~~ (R.p.46).⁵ It is merely coincidence that the fact-finding statements Appellant provided regarding his late claims on June 19, 2020, were reviewed and adjudicated on the same day that Appellant spoke with an Appeal representative.

Instead of some wild conspiracy, the Department denied Appellant's eligibility for benefits for the six weeks in question simply because he did not timely file claims for those

⁵ Appellant's letter to the Department mailed July 24, 2020, clearly references his receipt of the responsive documents the Department sent Appellant as a result of his FOIA request.

weeks as required by South Carolina law, and because he was at fault in failing to do so. The Panel's decision making those simple findings is supported by substantial evidence in the form of Appellant's testimony and the documents entered into evidence. (R.p.7; p.13; 60, lines 10-16; p.60, lines 26-29; p. 61, lines 14-15; p. 67, lines 11-13; p.92). As a result, there are no grounds to disturb the Panel's decision.

C. The Panel did not exceed its statutory authority in denying Appellant benefits under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act).

Appellant argues that the Panel erred in denying him benefits under the CARES Act. (App.Br.pp.13-14). Appellant specifically references the Pandemic Emergency Unemployment Compensation (PEUC) program and the \$600 supplemental payment provided by the Federal Pandemic Unemployment Compensation (FPUC) program, and his arguments are completely without merit.

The Panel did not commit an error of law, and its decision was not arbitrary or capricious for failing to adjudicate whether Appellant was eligible for PEUC because the ~~claim at issue in these proceedings is Appellant's UI claim, which is a claim and process~~ that is separate from a claim for PEUC. Because a claim for UI and a claim for PEUC are two different proceedings, the Panel could not have adjudicated Appellant's claim for PEUC as part of his claim for UI. Each program has specific criteria and requirements for eligibility, and an application for each program is required to allow the Department to gather the information needed and adjudicate the individual's eligibility. Because a claim for UI and a claim for PEUC are two separate claims and involve separate proceedings, the Panel did not err by failing to adjudicate Appellant's eligibility for PEUC as part of

Appellant's claim for UI benefits. Moreover, this Court is a court of review sitting in an appellate capacity and is authorized only to hear appeals from the Department's final agency decisions. *See* § 1-23-380(5) (stating this Court's standard of review); *Brown v. S.C. Dep't of Health and Envtl. Control*, 348 S.C. 507, 519, 560 S.E.2d 410, 417 (2002) (explaining that courts reviewing final agency decisions sit in an appellate capacity). Thus, this Court does not have jurisdiction to issue a decision determining Appellant's PEUC eligibility when the Department has not issued a final decision on a claim for PEUC that Appellant has never applied for.

Additionally, the CARES Act requires that “the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof (including terms and conditions relating to availability for work, active search for work, and refusal to accept work) shall apply to claims for [PEUC] and the payment thereof, except where otherwise inconsistent with the provisions of this section or with the regulations or operating instructions of the Secretary promulgated to carry out this section.” 15 U.S.C. 9205(4)(B). ~~The Secretary of Labor issued operating instructions to states advising that~~ “the provisions of the applicable state law that apply to claims for PEUC include but are not limited to: a. Claim Filing and Reporting;...e. Disqualification, including disqualifying income provisions; Note: **An individual is not entitled to receive PEUC for a week if the individual is ineligible for benefits for the week due to a disqualification under the applicable state law....**” UIPL 17-20, Attachment I, Section D(2) (emphasis added). Therefore, even if Appellant had applied for PEUC, he would be ineligible to receive

PEUC for the weeks in question because he did not comply with South Carolina's law regarding the timely filing of weekly claims for benefits.

Finally, the \$600 FPUC supplemental payment is only payable to an individual who is eligible to receive state or federal UI benefits during a given week. 15 U.S.C. 9023(b)(1) ("...the State will make payments of regular compensation to individuals in amounts and to the extent they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation..."). Further, the Secretary of Labor issued operating guidance to states advising that "**an individual is not entitled to receive FPUC for a week in which the individual is ineligible for regular UC** or the underlying benefit from another federal program." UIPL 15-20, Attachment I, Section D(2) (emphasis added). Therefore, Appellant is ineligible to receive FPUC for the weeks in question because he is ineligible to receive regular UI benefits for those weeks, and the Panel would have exceeded its statutory authority if it had paid Appellant FPUC.

D. ~~The Panel's decision is supported by substantial evidence.~~

Appellant argues that the Panel's decision is unsupported by substantial evidence in the record. As argued extensively above, the Panel's decision is clearly supported by substantial evidence in the form of Appellant's testimony that he did not file timely claims because he did not understand the written notices provided to him and Appellant's written statement that he waited at least twenty-one days to attempt to contact the Department. (R.p.7; p.13; 60, lines 10-16; p.60, lines 26-29; p. 61, lines 14-15; p. 67, lines 11-13; p.92).

CONCLUSION

The party challenging the ruling bears the burden of proving that the Panel's decision is unsupported by the evidence. *Waters, supra*. The Panel's decision, however, is supported by substantial evidence. The Panel reasonably concluded that Appellant failed to meet the eligibility requirements under the law to receive UI benefits and that his own negligence was the root cause of his failure to file timely claims. Accordingly, this Court should affirm the Panel's November 17, 2020, decision holding Appellant ineligible to receive benefits for the six claim weeks in question.

Respectfully Submitted,



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March 30, 2021

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

GREG J. GERMAN,
Petitioner,

vs.

**SOUTH CAROLINA DEPT.
OF EMPLOYMENT AND
WORKFORCE,**
Respondent,

**NO. 20-ALJ-22-0340-AP
PETITIONER'S
REBUTTAL BRIEF**

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I. PETITIONER

1. Petitioner is an Army veteran who never once filed for unemployment benefits during his lifetime until the Covid pandemic in March 2020 shut down South Carolina. (See R. p. 040, 060 at ls. 23-26). That is forty-four years of employment history without a single claim for unemployment. (R. p. 060 at ls. 25-26). "I was unfamiliar with the unemployment system." (*Id.* at 23-24). For this neophyte unemployment applicant, DEW only provided "implied" notice.

II. IMPLIED NOTICE

2. On the third page of Respondent's Brief, under the unfortunate heading "FACTS," the Respondent appears to have misled this Court, and at the same time, established why the Petitioner's cause is meritorious.

3. The Respondent's Brief states,

"You must actively search for suitable work each week that you file a weekly certification for unemployment insurance benefits by performing at least two (2) job searches through the South Carolina Works Online System (SCWOS), so that search can be electronically verified. (R.p.7; p.92)."

Respondent's Brief at p. 3 (misleading emphasis omitted). At the contested hearing of this matter, the Hearing Officer acknowledged that, "at the time of filing in

March the actual work search on SCWOS was waived.” (R. p. 060, at ls. 12-13).

There can be no question that the certification of employment searches was no longer a requirement at the time—after the Governor closed down the state because of the Coronavirus pandemic.

4. In fact, the best that the Hearing Officer could manage was to state that notice to the Petitioner was “implied.” She said during the hearing:

“HEARING OFFICER: [A]t the time of filing in March the actual work search on SCWOS was waived. However, in the question it implied that you have to file a weekly certification. Did you understand that requirement at the time?”

GREG J. GERMAN: No, Ma'am.”

Id. at l. 14. Indeed, your Petitioner testified as follows at that hearing in response to the Hearing Officer:

“GREG J. GERMAN: Now it is my understanding based on what you just recited and also ... from what I've heard on the messages on the website and on the messages I heard on the telephone that the weekly requirement was waived as you put it, that I would no longer have to seek work because of the pandemic, and so I did not.”

(R. 060, l. 9 – 061, l. 4).

5. Obviously, DEW didn't do enough to notify Petitioner of the actual certification requirement. The very best they can do is rely on “implied” notice. There is nothing in the record that shows DEW telling Petitioner: “Your work

certification requirement is waived, but there is still another certification with which you must comply." DEW has to rely, for this appeal, on notice of something entirely different, which was waived.

6. If there is any question that the work requirement was waived by DEW during the period in question, Petitioner would ask this Honorable Court to take judicial notice of contemporaneous newspaper reports which announced that the work requirement had been waived.

7. In the light most favorable to DEW, that agency gave "implied" notice of a requirement that was effectively camouflaged inside the notice for a requirement that DEW very publicly waived.

8. Petitioner should not have had to look under rocks for "implied" notice, and, moreover, when Petitioner had questions about whether his submission conformed to the rules, Respondent/DEW failed to answer its telephones for a month and a half, and, then, when DEW finally answered telephones, it informed Petitioner that he would be paid for his lost work.

9. That brings us to why DEW's actions were arbitrary and capricious, characterized by an abuse of discretion, or made upon unlawful procedure. It is Petitioner's contention that DEW's actions in finding no "good cause," for denying benefits, and the reasons for denying said benefits fit each of the above definitions.

III. ARBITRARY AND CAPRICIOUS, AN ABUSE OF DISCRETION OR MADE UPON UNLAWFUL PROCEDURE

10. Respondent/DEW acknowledges it has discretion in granting benefits, that it “may accept any late filing.” S.C. Code Ann. Regs. § 47-32(A). So, in this case, DEW could have accepted the claims given that there was an international pandemic at the time, claims given that DEW did not answer telephones to provide Petitioner with answers to his questions, although he testified that he “did try and call multiple times from April 4th until June, at least 16 times that I show on my phone log” (R, p. 061, ls. 5-7), with no answer from DEW other than a recorded message (*Id.* at ls. 8-9), claims given that representatives of DEW on multiple times said, in no uncertain terms, that he would be compensated for his six weeks of lost work. (*Id.* at p. 065, l. 27; ls. 5-12).

11. Note that the recorded message did not say anything about certification requirements other than that “if there’s any issue that appears on your portal, then don’t worry about it, and they could fix it.” (*Id.* at ls. 9-11) (grammar supplied).

12. The record on appeal establishes that:

A. DEW provided only “implied” notice of their certification requirement. This is an admission from the DEW Hearing Officer.

- B. DEW expressly waived the work search certification requirement. This was also an admission by the DEW Hearing Officer.
- C. DEW failed to answer their telephones for at least six weeks. (*Id.* at ls. 5-9)
- D. The only communication from DEW about certification during the interim was that the one certification requirement (i.e. work search) had been waived.
- E. Eventually, Petitioner spoke to an actual DEW representative and asked her to check on his file and let him know if there were any problems. She said there were none. (R. p. 063, at ls. 1-18).
- F. Subsequently, Petitioner spoke to another actual DEW representative on June 19, 2020. This was the first DEW agent to say that Petitioner needed to certify his weekly claims. The weekly claims were then certified. Once that was done, she said, "you'll get a payment for all six weeks" once they verify the information we had entered. (R. p. 038).
- G. On July 10, 2020, Petitioner called back and spoke to a DEW agent who responded to a question about whether DEW would send payment for the six weeks, responded as follows, "Yes, Sir, they will." (*Id.*) (The statements by DEW

in these last two paragraphs were recorded, and have not been rebutted by Respondent/DEW.).

H. Thus, the unrebutted proof in the Appeal Record was that one DEW representative said there was no problem with Petitioner's file, and two other DEW agents later told him that he would be paid for the six weeks of lost work.

13. But something must have changed.

14. When Petitioner called DEW back on July 23, 2020, he spoke to another DEW representative, and during this conversation Petitioner noted that he had tape recordings of DEW agents acknowledging that he would be paid, and Petitioner mentioned that he had filed Freedom of Information Act requests on DEW. (R. p. 065, l. 30 – p. 66, l. 24).

15. Later that same day, DEW denied all six claims. (R. p. 065, l. 30 – p. 066, l. 24).

16. During this appeal, DEW has asked for two extensions of time: Once to file the record on appeal, and once to file its brief. The excuse in both instances related to Covid. This would be similar to the Petitioner's claims if this Honorable Court had been shut down for six weeks, with nobody answering the phone, and only a vague recorded message, and then after six weeks, this Court denied both motions.

17. Failure to provide the lost weeks is an abuse of discretion on the part of DEW. The actions of DEW to deny all six weeks of benefits was arbitrary and capricious. Two agents of DEW said payment would be forthcoming. (R. p. 038).

Then, on the day DEW became aware of FOIA claims and taped conversations, it denied payment. (R. p. 065, l. 30 – p. 066, l. 24).

18. Additionally, DEW used unlawful procedure to provide notice of the certification requirement, and that unlawful procedure continued as DEW failed to answer its telephones for six weeks. (R. p. 037). Finally, the unrebutted evidence provides that DEW let the claim linger for some time, then on the same day that Petitioner mentioned his FOIA requests and taped conversations, it denied claims. (R. p. 065, l. 30 – p. 066, l. 24). Their decision was based on unlawful procedure.

19. On page 14 of DEW's brief, counsel states in defense of allegations of unlawful procedure based upon Petitioner's claims derived from his statutory right to submit FOIA queries and tape conversations that "the Department categorically denies this baseless allegation." Respondent's Brief, at p. 14.

20. This should be stricken from the brief. DEW had notice of the allegations before the contested hearing and did not provide any evidence to rebut them. (R. p. 042, 039, 044-046). There is nothing in the Record of Appeal to support DEW's assertion at this late date. It is baseless.

IV. CARES ACT

21. DEW claims that Petitioner never applied for or requested CARES Act benefits. Respondent's Brief, at p. 16. This not true. (R. pp. 040, 043, 067 at ls. 23-27, p. 105).

22. Respondent/DEW was well aware of Petitioner's request for CARES Act benefits. *See id.*

23. The CARES Act specifically provided DEW with the ability to "[p]rovide for up to 13 weeks of benefits to individuals who ... have no rights to regular UC under any other state or federal law."

24. That is \$3,600.00 (\$600.00 x 6 weeks) that Petitioner could have used at the time and after, as Petitioner noted at his contested hearing that the balance in his one and only bank account was \$127.53. (R. p. 067, ls. 4-5).

25. The fact that DEW would brush off a person in such dire financial straits, even as the CARES Act gives them exceptional authority to provide relief, is proof that the department acted arbitrarily and capriciously and with malice.

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Greg German,

Appellant,

vs.

South Carolina Department of Employment and
Workforce,

Respondent.

Docket No. 20-ALJ-22-0340-AP

FINAL ORDER

This matter is before the Administrative Law Court (ALC or court) on the appeal of Greg German (Appellant) filed on December 15, 2020. The Appellant appeals the decision of the South Carolina Department of Employment and Workforce (Department) Appellate Panel (Panel) finding him ineligible for benefits effective March 29, 2020 through May 9, 2020, upon finding the Appellant failed to file weekly claims in a timely manner. After careful consideration of the briefs of the parties, the record, as well as the applicable law, the court finds that substantial evidence in the record supports the Panel's determination that the Appellant failed to file his weekly claims in a timely manner. Accordingly, the Panel's decision is affirmed.

BACKGROUND

On March 30, 2020, the Appellant filed a claim for unemployment insurance (UI) benefits. The Department mailed a determination on April 15, 2020, finding the Appellant eligible to receive UI benefits without disqualification effective March 29, 2020. The Appellant did not file weekly claims for the six claim weeks from claim week ending April 4, 2020, through the claim week ending May 9, 2020, until June 9, 2020. The Department mailed six determinations on July 23, 2020, that collectively held the Appellant ineligible to receive benefits for the six claim weeks, from claim week ending April 4, 2020, through the claim week ending May 9, 2020, upon a finding that the Appellant did not file timely weekly claims. The Appellant appealed to the Appeal Tribunal and after an evidentiary hearing, the Appeal Tribunal affirmed the decision. The Appellant then appealed to the Appellate Panel. The Appellate Panel affirmed the Appeal Tribunal's decision. This appeal followed.

FILED

APR 27 2021

SC ADMIN. LAW COURT

ISSUES ON APPEAL

Whether substantial evidence exists in the record to support the Department's determination that the Appellant did not file timely weekly claims for benefits?

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 decisions of the Department. See S.C. Code Ann. §§ 1-23-380 & 1-23-600(D). This court's review in appellate cases is limited to the record. S.C. Code Ann. § 1-23-380(4). Additionally, the court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5). Substantial rights of the appellant are prejudiced when, among other things, the agency's decision, including the agency's findings, inferences, and conclusions, are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. *Id.* However, the party challenging an agency action on appeal has the burden of proving convincingly that the agency's decision is not supported by substantial evidence. *Waters*, 321 S.C. at 226, 467 S.E.2d at 917 (citation omitted).

In applying the substantial evidence rule, the factual findings of the administrative agency are presumed to be correct. *Rodney v. Michelin Tire Corp.*, 320 S.C. 515, 519, 466 S.E.2d 357, 359 (1996) (citing *Kearse v. State Health & Human Servs. Fin. Comm'n*, 318 S.C. 198, 200, 456 S.E.2d 892, 893 (1995)); 73A C.J.S. *Public Administrative Law and Procedure* § 497 (2015). A reviewing court is prohibited from substituting its judgment for that of the agency as to the weight of the evidence on questions of fact for which there is room for a difference of intelligent opinion. See *Byerly Hosp. v. S.C. State Health & Human Servs. Fin. Comm'n*, 319 S.C. 225, 229, 460 S.E.2d 383, 386 (1995) (citation omitted); *Grant*, 319 S.C. at 353, 461 S.E.2d at 391 (citation omitted). As such, "[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.'" See *Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Nat. Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark*, 276 S.C. at 136, 276 S.E.2d at 307).

DISCUSSION

On October 14, 2020, the Appeal Tribunal held an evidentiary hearing. The Hearing Officer asked the Appellant, if at the time he filed his initial claim for unemployment insurance benefits, and answered yes to the question of whether he was willing to accept the requirement to "...actively search for suitable work each week that you file a weekly certification for unemployment insurance benefits..." if the Appellant understood that requirement at the time. The Appellant stated that he did not. (R. p. 60). The Appellant stated that he heard that he would no longer have to seek work because of the pandemic but that he "had no idea there was a certification requirement every week." (R. p. 61). The Appellant testified that he was not aware of the certification requirement until a neighbor had informed him of the requirement, after which he called the Department and certified the six weeks. (R. p. 64).

The Department argues that the Appellant failed to establish that he met the eligibility requirements under the law to receive UI benefits for the claim week ending April 4, 2020, through the claim week ending May 9, 2020, because the Appellant did not file claims for those weeks until June 19, 2020, more than two months after the earliest claim week ended and more than a month after the latest claim week ended. An individual is eligible to receive UI "benefits with respect to a week for a claim week only if the department finds he has made a claim for benefits with respect to that week pursuant to regulations prescribed by the department." S.C. Code Ann. § 41-35-110(1). A weekly claim for UI benefits is timely filed "if received within fourteen (14) calendar days of the claim week ending date." S.C. Code Ann. Regs. § 47-32(A).

Assessing the weight and credibility of the evidence is a task for the fact-finder, and the appellate court will not disturb those findings, absent error of law. See S.C. Code Ann. § 1-23-380(5) (Supp. 2016); see also *Houston v. Deloach & Deloach*, 378 S.C. 543, 551-52, 663 S.E.2d 85, 89 (Ct. App. 2008) (under the APA, the appellate court does not overturn findings of fact unless there is no reasonable probability that the fact could be as related by the witness). The Appellant maintains that he was unaware he needed to file weekly claims for benefits in order to receive benefits. The Appellant asserts that because he was not required to conduct a weekly work search on the South Carolina Works Online Service (SCWOS), he was under the assumption that he did not need to do anything to draw benefits after he filed the initial application.

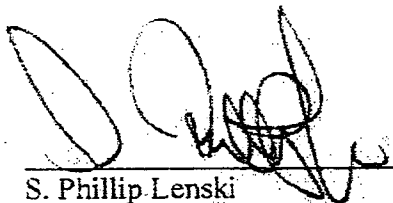
The Appellate Panel found that the record established the Appellant failed to file a timely claim for benefits for the six claim weeks from March 29, 2020, through May 9, 2020, and

therefore was ineligible for those benefits. This finding is supported by substantial evidence in the record. Under the substantial evidence standard of review, the Appellant has the burden of convincingly proving that the agency's decision is unsupported by the evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). "Substantial evidence is not a mere scintilla of evidence nor evidence viewed blindly from one side, but is evidence which, when considering the record as a whole, would allow reasonable minds to reach the conclusion that the agency reached." *Id.* (citation omitted). "The possibility of drawing two inconsistent conclusions from the evidence will not mean the agency's conclusion was unsupported by substantial evidence." *Id.* Therefore, based on the foregoing,

ORDER

IT IS HEREBY ORDERED that the Department's decision is **AFFIRMED**.

AND IT IS SO ORDERED.

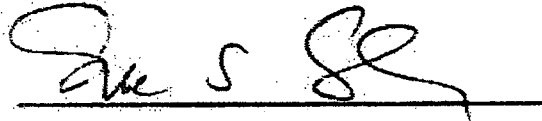


S. Phillip Lenski
Administrative Law Judge

April 27, 2021
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Erika S. Easler, 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).

A handwritten signature in black ink, appearing to read 'Erika S. Easler', written over a horizontal line.

Erika S. Easler
Judicial Law Clerk

April 27, 2021
Columbia, South Carolina

FILED

APR 27 2021

SC ADMIN. LAW COURT

NOTICE OF APPEAL FROM ADMINISTRATIVE TRIBUNAL

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

CASE NO. 20-ALJ-22-0340-AP

SOUTH CAROLINA DEPT.
OF EMPLOYMENT AND
WORKFORCE,
Respondent,

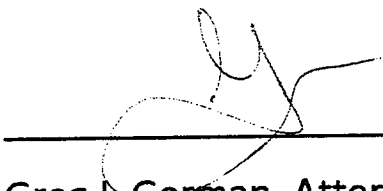
v.

Greg J. German,
Appellant,

NOTICE OF APPEAL

Greg J. German appeals the decision of Honorable S. Phillip Lenski dated April 27, 2021. Appellant received a copy of the decision on April 27, 2021 via email.

May 7, 2021



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Other Party:

South Carolina Department of Employment and Workforce
C/O Mr. Paul Famolari
Office of General Counsel-SCDEW
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The Honorable Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Honorable Judge Lenski,

I do not believe that there is cause to request a transcript of anything in this matter other than a docket sheet. I have everything else that was offered of record in this matter. If there is anything else that you or your office is aware of, I would appreciate a copy of that as well. I have enclosed a stamped and self-addressed envelope.

Sincerely,



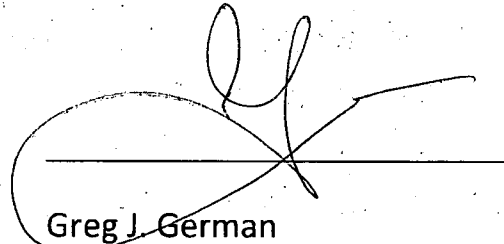
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CERTIFICATE OF COUNSEL

THIS IS TO CERTIFY that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



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Appellant *pro se*