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Feb 09 2022

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph King Anderson, III, Chief Administrative Law Judge

Case No.: 21-ALJ-22-0213-AP

Appellate Case No. 2021-001393

Tennisha L. Douglas, Appellant,

v.

South Carolina Department of Employment and
Workforce and Providence Hospice, LLC, Respondents.

**MOTION TO DISMISS FOR FAILURE TO TIMELY FILE AND SERVE
APPELLANT'S INITIAL BRIEF AND DESIGNATION OF MATTER**

Respondent South Carolina Department of Employment and Workforce (the Department) submits this motion to dismiss Appellant Tennisha L. Douglas's appeal due to her failure to timely file and serve her initial brief and designation of matter as required by Rules 208 and 209 of the South Carolina Appellate Court Rules, as well as this Court's December 9, 2021, and January 19, 2022, letters.

The Administrative Law Court (ALC) issued its decision November 2, 2021, finding that substantial evidence supported the Department's decision that Appellant voluntarily left her employment with Providence Hospice, LLC without good cause. *See Exhibit 1, ALC Decision.*

Appellant filed her appeal with this Court on December 1, 2021. *See Exhibit 2, Appeal to Court of Appeals.* On December 9, 2021, this Court granted Appellant's motion to proceed in

forma pauperis and advised Appellant that her initial brief and designation of matter must be filed within thirty days. *See Exhibit 3, December 9, 2021, letter.* Moreover, this Court informed Appellant that “[f]ailure to comply with the Court’s request will result in dismissal of this appeal.” *Id.* The deadline for Appellant to file her initial brief and designation of matter was January 10, 2022¹.

On January 19, 2022, this Court sent Appellant a letter advising her that she had not filed her initial brief and designation of matter as required by the Court’s rules. *See Exhibit 4, January 19, 2022, letter.* The Court advised Appellant that she must file her initial appellant’s brief and designation of matter within ten days, along with a motion requesting permission to file those documents late, or her “appeal will be dismissed.” *Id.* As a result, Appellant’s new deadline was January 31, 2022.² As of the date of this motion, Appellant has failed to file either her initial brief or her designation of matter, nor has she filed a motion requesting an extension of time to file these documents. *See Exhibit 5, Affidavit of Kristi Chesley; Exhibit 6, Screenshot of C-Track.*

While the Department recognizes that Appellant is proceeding *pro se*, a *pro se* litigant is responsible “for complying with substantive and procedural requirements of the law.” *State v. Burton*, 356 S.C. 259, 265, 589 S.E.2d 6, 9 (2003); *State v. Policano*, 402 S.C. 547, 558, 741 S.E.2d 774, 779-80 (Ct.App.2013). Rule 208(a)(4), SCACR, provides that an appellant’s appeal shall be dismissed if an appellant fails to file and serve her brief within the time prescribed. Further, pursuant to Rule 260(a), SCACR, this Court “shall” dismiss an appeal whenever an appellant fails to comply with the requirements of the Court’s rules.

¹ Thirty days from December 9, 2021 was January 8, 2022, a Saturday. Pursuant to Rule 263(a), SCACR, the deadline extended to Monday, January 10, 2022.

² Ten days from January 19, 2022, was January 29, 2022, a Saturday. Pursuant to Rule 263(a), SCACR, the deadline extended to Monday, January 31, 2022.

Appellant has simply not timely filed and served her initial brief and designation of matter in this case. Indeed, she has not filed any initial brief or designation of matter, nor has she requested an extension of time to file these documents. As a result, Appellant has failed to comply with the Court's rules and clearly established deadline, which required Appellant to file and serve her initial brief and designation of matter, along with a motion for permission to file these documents late, by January 31, 2022. Accordingly, the Department respectfully requests that this Court dismiss Appellant's appeal pursuant to Rule 260(a) due to her failure to comply with Rules 208 and 209. The Department further respectfully requests that all deadlines be held in abeyance pending the Court's resolution of this motion.

Respectfully Submitted,



Paul Famolari (SC Bar # 076723)
SC Department of Employment and Workforce
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February 9, 2022

**Attorney for Respondent SC Department of
Employment and Workforce**

Exhibit 1

STATE OF SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Tennisha L. Douglas,)	Docket No. 21-ALJ-22-0213-AP
)	
Appellant,)	
)	
v.)	ORDER
)	
South Carolina Department of Employment)	
and Workforce and Providence Hospice,)	
LLC,)	
)	
Respondents.)	

This matter comes before the South Carolina Administrative Law Court (ALC Court) pursuant to an appeal by Tennisha L. Douglas (Appellant) from the decision of the South Carolina Department of Employment and Workforce (Department) Appellate Panel (Panel), which held that Appellant left her employment with Providence Hospice, LLC. (Employer)¹ voluntarily without good cause. The ALC has jurisdiction to hear this matter pursuant to section 41-35-750 of the South Carolina Code (2021) and section 1-23-600(D) of the South Carolina Code (Supp. 2020). Upon consideration of the briefs and the Record, the Appellate Panel’s decision is affirmed.

BACKGROUND

Appellant worked for Employer from February 11, 2020, to March 18, 2020, as a certified nursing assistant (CNA). On March 15, 2020, Appellant requested time off for the following day, March 16, to pick up her children’s assignments and laptop from their schools due to the schools closing for the COVID-19 pandemic. She was informed by her CNA supervisor, Selena Gray, that her request was denied “because she had other people off” and because “she couldn’t afford for [her] to be off that day.” Ms. Gray also informed her if she took the day off, she could not return to work. Appellant then took March 16 from work and returned on March 18, which was her last day of work. The next day, March 19, Appellant turned in her work laptop to Karen Ancell, Director of Human Resources.

¹ The Court will refer to DEW and Employer collectively as “Respondents.”



Appellant filed a claim for unemployment insurance (UI) benefits with the Department on March 23, 2020. In her first application, Appellant listed Providence Care, LLC in York, South Carolina as her last employer, and indicated that she was on “layoff due to Coronavirus” as of March 18, 2020. Employer did not provide information to the Department. Consequently, the claims adjudicator mailed a determination April 15, 2020, holding Appellant eligible to receive UI benefits effective March 22, 2020, upon a finding she had been unemployed due to a lack of work. On August 10, 2020, Appellant submitted a new application for UI benefits and this time, listed Providence Hospice, LLC in Rock Hill, South Carolina as her last employer and indicated that she had been “fired, terminated, or discharged from the job” as of March 18, 2020.² As a result of this information, the Department issued a decision on October 27, 2020, rescinding its April 15, 2020 determination which held Appellant eligible for UI benefits.

However, the Department’s claims adjudicator issued a new determination on February 4, 2021, finding that pursuant to section 41-35-120(1) of the South Carolina Code (2021), Appellant voluntarily left her employment without good cause and was, therefore, ineligible for UI benefits. Appellant appealed this decision to the Appeal Tribunal (Tribunal), which held a hearing on April 7, 2021. Appellant and Karen Ancell, Director of Human Resources of Employer, both testified before the Tribunal. During the hearing, Ms. Ancell testified Appellant voluntarily quit her employment with Employer when Appellant took an unauthorized day off from work and turned in her equipment. Ms. Ancell also confirmed that Ms. Gray denied Appellant’s request for the day off because of Employer’s patient care needs. When Appellant dropped off her laptop, Ms. Ancell asked Appellant “why she hadn’t contacted [her supervisor] that we were willing to let her come in to work late” on March 16. Appellant responded by turning in the equipment and leaving. At the hearing, Appellant admitted she did not ask if she could take part of the day off, instead she took whole day off.

Ms. Ancell also explained that Employer has a grievance procedure in place which provided Appellant an opportunity to dispute her supervisor's decision. Nevertheless, Appellant

² Appellant had exhausted the twenty (20) weeks of UI benefits she was entitled to receive under state law and was attempting to obtain federal Pandemic Emergency Unemployment Compensation (PEUC) under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). *See* S.C. Code Ann. § 41-35-50 (2021); 15 U.S.C. A. § 9025 (Westlaw Edge through Pub. L. No. 117-50). Prior to processing a PEUC application, states are required to verify that an individual did not qualify for any other state UI program, which was why Appellant completed a new state UI application. *See* United States Department of Labor Unemployment Insurance Program Letter 17-20, Attachment I(D)(3).

did not exercise that opportunity to remedy her concerns. Instead, without attempting to make any alternate arrangements with her child's school district, Appellant took the unauthorized day off, turned in her equipment without talking to anyone else at Providence Hospice about her situation, and left. Based upon these facts, the Tribunal affirmed the claim's adjudicator's determination and determined that Appellant voluntarily left her employment without good cause and was thus disqualified from receiving UI benefits.

Thereafter, Appellant appealed to the Department's Panel. In her appeal, Appellant offered documentation consisting of a printed email from Rock Hill Schools District that provided notice to parents that all public schools were closed indefinitely due to the public health emergency and gave an opportunity to pick up laptops for remote learning. Appellant also made additional arguments relating to the Tribunal's decision and the testimony it relied on. On May 25, 2021, the Panel affirmed the Appeal Tribunal's determination, finding that:

The record establishes the Claimant initiated the separation with the Employer when she decided not to report to work and returned her equipment to the Employer. The Claimant did not take reasonable steps to remain employed. While the Claimant may have needed to obtain her children's assignments and laptops from their school, the Claimant had an opportunity to make other arrangements with upper management or her children's schools, but failed to do so. The Claimant did not provide the Employer with the opportunity to remedy her concerns. Therefore, we find the Claimant voluntarily left work without good cause attributable to the employment.

The Panel also denied Appellant's request to submit additional evidence because it was confined to the record developed before the Tribunal.

On June 24, 2021, Appellant filed a Notice of Appeal with this Court challenging the Panel's decision.

ISSUES ON APPEAL

- I. Did the Appellate Panel commit an error of law by admitting and relying upon inadmissible hearsay evidence?
- II. Is there substantial evidence to support the Appellate Panel's finding that Appellant voluntarily quit her job without good cause?

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, the predecessor of the Department, was an agency within the

meaning of the APA). Accordingly, the APA's standard of review governs appeals from Department decisions. *See* S.C. Code Ann. §§ 1-23-380, 1-23-600(D) (Supp. 2020); *Gibson*, 282 S.C. at 386, 318 S.E.2d at 367; *McEachern v. S.C. Emp't Sec. Comm'n*, 370 S.C. 553, 557, 635 S.E.2d 644, 646-47 (Ct. App. 2006). Section 1-23-380(5) of the South Carolina Code (Supp. 2020) provides the standard used by appellate bodies to review agency decisions. *See* § 1-23-600(D) (directing administrative law judges to conduct appellate review in the same manner prescribed in section 1-23-380). That section states:

The court may reverse or modify the decision [of an agency] 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.

§ 1-23-380(5).

A decision is supported by “substantial evidence” when the record as a whole allows reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010). The fact that the record, when considered as a whole, presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency's findings from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). In applying the substantial evidence rule, “a reviewing court will not overturn a finding of fact by an administrative agency ‘unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.’” *Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Natural Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981)). When applying the substantial evidence rule, the factual findings of the administrative agency are presumed to be correct. *Rodney v. Michelin Tire Co.*, 320 S.C. 515, 519, 466 S.E.2d 357, 359 (1996). Furthermore, the reviewing court is prohibited from substituting its judgment for that of the agency as to the weight of the

evidence on questions of fact. *Grant v. S.C. Coastal Council*, 319 S.C 348, 353, 461 S.E.2d 388, 391 (1995). 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). Finally, the party challenging an agency action has the burden of proving convincingly that the agency's decision is unsupported by substantial evidence. *Waters*, 321 S.C. at 226, 467 S.E.2d at 917.

DISCUSSION

- I. Did the Appellate Panel commit an error of law by admitting and relying upon inadmissible hearsay evidence?

Appellant raises multiple arguments relating to hearsay in her brief. Specifically, her main argument is that the Panel erred by basing its decision solely upon inadmissible hearsay. She also argues the Panel erred by failing to address a hearsay issue raised and a witness statement issue that she raised. Lastly, she argues her substantial rights were prejudiced because of administrative findings, administrative inferences, administrative conclusions and/or administrative decisions based upon inadmissible hearsay testimony. The Department, on the other hand, argues Appellant is raising the issue of hearsay for the first time on appeal and, thus, the issue is not preserved. The Department further argues that even if the issue is preserved, the Panel's decision was not based solely on inadmissible hearsay.

In this case, the hearing officer questioned the witnesses individually, allowed the parties to cross-examine each other, provided the parties with the opportunity to raise objections and ask procedural questions, and offered a final opportunity to provide new or rebuttal testimony. Nevertheless, Appellant failed to object to any testimony provided during the Tribunal hearing. Indeed, Appellant never communicated to the hearing officer, in any way, that any of Ancell's testimony should be disallowed.³ Therefore, the issue of hearsay is not preserved on appeal. *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.").

³ Upon review of the Tribunal's decision by the Department's Panel, Appellant raised some hearsay arguments. However, in UI appeals, the Department's Tribunal is primarily tasked with hearing the testimony and evidence presented to the Department, and making findings of fact regarding that evidence. *See* S.C. Code Ann. Regs. 47-51(C)(1), (E) (Supp. 2020); *see also* S.C. Code Ann. Regs. 47-52(B)(1) (Supp. 2020). ("Except as provided in Appeal regulation 47-52, D for the hearing of appeals removed to the Appellate Panel from an Appeal Tribunal, all appeals to the Appellate Panel shall be heard solely upon the evidence in the record before the Appeal Tribunal.").

Issue preservation is obviously an important appellate criterion because, by failing to object on the grounds of hearsay, Appellant deprived Employer the opportunity to argue the reasons it offered the testimony and whether the testimony was admissible hearsay. *See State v. Johnson*, 363 S.C. 53, 58, 609 S.E.2d 520, 523 (2005) (holding that in order to preserve an issue for review, there must be a contemporaneous objection that is ruled upon by the trial court); *see also State v. Byers*, 392 S.C. 438, 444, 710 S.E.2d 55, 58 (2011) (“For an objection to be preserved for appellate review, the objection must be made at the time the evidence is presented . . . and with sufficient specificity to inform the [hearing officer] of the point being urged by the objector.”). But, in UI cases, it is even more important because it affects the application of regulation 47-51(C)(3) of the South Carolina Code of Regulations (Supp. 2020).

Regulation 47-51(C)(3) provides that in UI cases before the Department, “[e]vidence will not be excluded solely because it may be hearsay.” Reg. 47-51(C)(3). “Hearsay, including information provided to the Department through telephone conversations and written statements, may be considered. However, findings of fact cannot be based exclusively on hearsay evidence unless that evidence is admissible under the South Carolina Rules of Evidence.” *Id.* In other words, the Department’s findings may be based solely upon admissible hearsay pursuant to the South Carolina Rules of Evidence but not solely upon hearsay which is not subject to a hearsay exception. Thus, Appellant is required to object to the admission of hearsay evidence, in order to lay a foundation that the evidence supporting her termination was based on inadmissible hearsay. Without an objection or ruling to explain the reason for the admission of the evidence, this Court cannot evaluate whether the hearsay evidence was exclusively inadmissible hearsay evidence. *See Johnson*, 363 S.C. at 58, 609 S.E.2d at 523.

Furthermore, even if Appellant had made timely objections to Ancell's testimony, Appellant’s arguments would still fail because the Panel's decision is not based solely on inadmissible hearsay. The Panel made factual findings that relied on Appellant's own testimony to determine that Appellant voluntarily quit without good cause. Accordingly, Appellant’s own testimony, which is clearly not hearsay, supports the Panel’s decision. Specifically, the Panel found (1) Appellant did not report to work as scheduled; (2) she returned her equipment to Employer; and (3) she did not take reasonable steps to remain employed. These findings were supported by Appellant’s admissions. For instance, Appellant admitted she took an unauthorized day off and that she turned in her laptop and equipment to Employer’s human

resources director, Ms. Ancell. Appellant also admitted she did not seek reasonable remedies such as requesting a partial day off, discussing her concerns with human resources or others, or finding an alternate time to pick up her children's school materials. She also did not utilize the grievance process Employer had in place to dispute her supervisor's decisions. The Panel thus applied the law to the facts as admitted by Appellant to conclude that she voluntarily quit her employment without good cause.

In conclusion, I find that the Panel did not rely exclusively on inadmissible hearsay evidence. Consequently, the Court also need not consider any prejudice arising from the admission of any hearsay evidence.

II. Is there substantial evidence to support the Appellate Panel's finding that Appellant voluntarily quit her job without good cause?

From the outset, nearly all of Appellant's arguments attack the evidence relied upon by the Panel because it was based upon inadmissible hearsay evidence but not the substantiality of the remaining evidence. However, because the Court finds that the allegedly inadmissible hearsay evidence was admitted without objection, and thus became competent evidence. *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 266, 442 S.E.2d 611, 616 (1994) ("Evidence received without objection is competent."); *State v. White*, 215 S.C. 450, 454, 55 S.E.2d 785, 787 (1949) ("The rule is well settled that evidence even though incompetent, if admitted without objection or motion to strike, is to be given the same probative force as that to which it would be entitled if it were competent."). Moreover, even if she did make timely objections, the Panel's decision is not based solely on inadmissible hearsay. The Panel, as the trier of fact, was entitled to give that evidence the weight it deemed proper. *See Hanna v. Palmetto Homes, Inc.*, 300 S.C. 535, 537, 389 S.E.2d 164 (Ct. App. 1990) ("[T]he credibility and weight to be accorded evidence is solely for the fact finder to determine. They are not matters with which an appellate court is at all concerned.").

The question, then, is whether the evidence in the record, including that which Appellant considers to be inadmissible, was cogent enough for a reasonable person to be able to reach the same conclusion as the Panel. *See Friends of the Earth*, 387 S.C. at 366, 692 S.E.2d at 913; *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981) ("Substantial evidence is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion

that the administrative agency reached or must have reached in order to justify its action.”) (internal quotation marks and citations omitted).

Section 41-35-120(1) of the South Carolina Code (2021) provides that an insured worker is ineligible for unemployment benefits for leaving his or her most recent work “voluntarily, without good cause.” Moreover, the Legislature determined that

no claimant shall be eligible to receive benefits or waiting period credit following the completion of a temporary work assignment unless the claimant shows that he informed the temporary employment agency that provided the assignment of the assignment's completion, has maintained on-going weekly contact with the agency after completion of the assignment, and that the agency has not provided a subsequent assignment for which the claimant's prior training or experience shows him to be fitted or qualified

S.C. Code Ann. § 41-35-110(3)(c) (2021). “[A]n employee may be charged with quitting a job by action or inaction with unavoidable ramifications.” *Samuel v. S.C. Emp't Sec. Comm'n*, 285 S.C. 476, 477, 330 S.E.2d 300, 301 (1985).

Here, the record contains sufficient evidence from which the Panel could reasonably decide that Appellant voluntarily quit her job without good cause due to her own action. As stated above, the Panel relied on Appellant's own testimony, which is clearly not hearsay, to make factual findings that Appellant voluntarily quit. Indeed, Appellant admitted that she did not report to work as scheduled on March 16, 2020, even though her supervisor had explicitly denied her leave request due to its patient care needs. Appellant nonetheless argued she had no choice but to take care of her children, because her children's school was closing. However, Appellant admitted she did not attempt to make alternative arrangements with her children's school district. Also, after taking the unauthorized day off, Appellant turned in her laptop and other equipment to her employer. Appellant took those actions, without talking to anyone at Providence Hospice other than her supervisor prior to turning in her equipment. These facts were confirmed by Ancell as well.

The Panel also had Ancell's firsthand testimony as the human resources director that Employer has a grievance process allowing an employee to dispute their supervisor's decisions or actions. Although, Appellant admitted to not utilizing this process, she nevertheless contends in her Reply brief that the Panel improperly inferred from Ms. Ancell's testimony that she had an opportunity to make other arrangements with upper management. Specifically, she contends that inference was not supported by the Record because Employer did not provide a copy of the

grievance procedure or any written statements from her supervisor or other management into evidence. However, as stated above, Appellant could have objected to Ancell's testimony but failed to do so. Moreover, Ancell's testimony was clearly probative. Ms. Ancell is the human resources director and thus, has personal knowledge of the grievance policies in place. Indeed, statements of personal knowledge are not hearsay and are legally competent evidence upon which to rely. *See* Rule 801(c), SCRE (defining "hearsay" to be "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted"). Finally, even if Appellant's supervisor had improperly told her that she could not return to work if she took March 16th off, that admonition does not alter the outcome of this case because Appellant voluntarily acted in such a way as to bring about the unavoidable ramification of her separation from employment. Just as in *Samuel*, the Employer informed Appellant of the consequence if she took the action of not reporting to work as scheduled, and Appellant acted with full knowledge of the ramifications and also did nothing to save her job. *Samuel*, 285 S.C. at 478, 330 S.E.2d at 301.

Therefore, there is substantial evidence upon which the finder of fact relied in reaching its decision and was such that it would allow a reasonable mind to arrive at the same conclusion, specifically that Appellant voluntarily left her job without cause.

ORDER

IT IS THEREFORE ORDERED that the Department's final agency decision is **AFFIRMED**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

November 2, 2021
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Perez, 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).



Stephanie Perez
Judicial Law Clerk

November 2, 2021
Columbia, South Carolina

Exhibit 2

**FORM 6
NOTICE OF APPEAL FROM ADMINISTRATIVE TRIBUNAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

DEC 01 2021

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph Anderson King, III, Administrative Law Judge

Case No. 21-ALJ-22-0213-AP

South Carolina Department of
Employment and Workforce
and Providence Hospice, LLC

Respondent,

v.

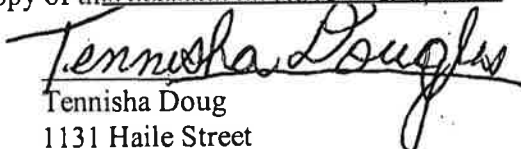
Tennisha L. Douglas,

Appellant.

NOTICE OF APPEAL

Tennisha L. Douglas appeals the decision of the Honorable Ralph King Anderson, III dated November 2, 2021. Appellant received a copy of this decision on November 6, 2021.

November 23, 2021


Tennisha Doug
1131 Haile Street
Rock Hill, South Carolina 29730
(803) 412-7019
Pro Se for Appellant

Other Counsel of Record:
Paul Famolari
Gen. Counsel SCDEW
Post Office Box 8597
Columbia, South Carolina 2929202
(803) 737 - 0395
Attorney for Respondent

FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL

RECEIVED

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

DEC 01 2021

SC Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph King Anderson, III ,

Chief Administrative Law Court Judge

Case No. 21-ALJ-22-0213-AP

South Carolina Department of
Employment and Workforce
and Providence Hospice LLC

Respondent,

v.

Tennisha L, Douglas

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on South Carolina Department of Employment and Workforce and Providence Hospice LLC by depositing copies of it in the United States Mail, postage prepaid, on November 23, 2021, addressed to Office of General Counsel SCDEW, Attorney of record, Paul Famolari, Post Office Box 8597, Columbia, South Carolina 29202 and a copy to, Providence Hospice, LLC, 500 Lakeshore Parkway Rock Hill SC 29730 on November 23, 2021.

November 23, 2021

Tennisha Douglas

Tennisha Douglas
1131 Haile Street
Rock Hill, South Carolina 29730
(803) 412-7019
Attorney for Appellant

LETTER TO CLERK OF LOWER COURT
FILING NOTICE OF APPEAL

November 23, 2021

RECEIVED

DEC 01 2021

SC Court of Appeals

The Honorable Jana Shealy
Clerk of Court for South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street
Columbia, South Carolina 29201

RE: Tennisha L. Douglas, Appellant, v. South Carolina Department of
Employment and Workforce and Providence Hospice, LLC,
Respondent, Case No. 21-ALJ-22-0213-AP

Dear Clerk of Court Ms. Jana Shealy,

Enclosed please find for filing a notice of appeal in the above case.

cc: Paul Famolari
Office of General Counsel, SCDEW
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395
Attorney for Respondent

Sincerely
Tennisha Douglas

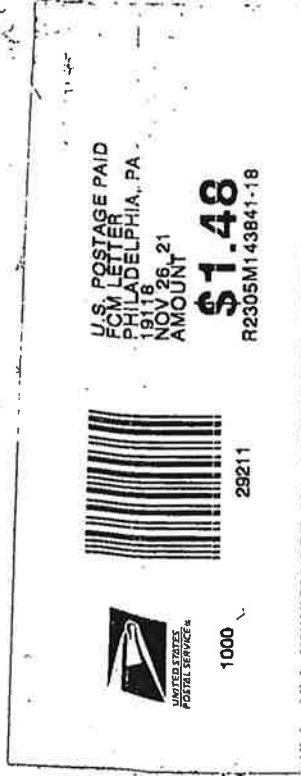
T. Douglas
7131 Whit St
Rock Hill SC 29730

Hon. Jimmy Abbott Jr

Clerk, SC Court of Appeals

P.O. Box 11629

Columbia SC 29211



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DEC 01 2021

SC Court of Appeals

The South Carolina Court of Appeals

Tennisha L. Douglas, Appellant,

v.

South Carolina Department of Employment and
Workforce and Providence Hospice, LLC, Respondents.

Appellate Case No. 2021-001393

ORDER.

The motion to proceed *in forma pauperis* is granted pursuant to S.C. Code Ann. §41-39-30 (1986).

Paul R. Famolari, J.
FOR THE COURT

Columbia, South Carolina

cc:
Tennisha L. Douglas
Paul R. Famolari, Esquire

FILED
Dec 09 2021



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
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January 19, 2022

Tennisha L. Douglas
1131 Haile Street
Rock Hill SC 29730

Re: Tennisha Douglas v. SCDEW
Appellate Case No. 2021-001393

Dear Ms. Douglas:

Our records reflect that the time for serving and filing the appellant's initial brief and designation of matter has expired. Within ten days of the date of this letter, you must serve and file the appellant's initial brief and designation of matter, along with a motion requesting permission to serve and file the initial brief and designation of matter outside of the filing deadlines set by Rules 208 and 209 of the SCACR. Your appellant's initial brief and designation of matter will not be considered and your appeal will be dismissed if no motion is made within ten days of the date of this letter.

Very truly yours,

V. Claire Allen

CLERK

cc: Paul R. Famolari, Esquire

Exhibit 5

AFFIDAVIT

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

PERSONALLY came before me, the undersigned Notary, the within named Kristi Chesley who is employed in Richland County, State of South Carolina, and makes this her statement and affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of her knowledge:

1. I am the Office Manager for the SC Department of Employment and Workforce (DEW). I am responsible for receiving, opening and processing the mail addressed to: Office of General Counsel, S.C. Department of Employment and Workforce, Post Office Box 8597, Columbia, SC 29202.
2. The Office of General Counsel has not received an Initial Brief or Designation of Matter from the Appellant in the case of Tennisha Douglas v. SC Department of Employment and Workforce, Appellant Case No 2021-001393.

Kristi Chesley
Signature of Affiant
Kristi Chesley

DATED AND SWORN to before me this the
9th day of February, 2022.

Nancy A. Moore (LS)
Notary Public for South Carolina

My Commission Expires: April 22, 2031.

Exhibit 6



CLERK'S OFFICE
SUPREME COURT
COURT OF APPEALS

South Carolina Appellate Case Management System

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Case Search

Participant Search

Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2021-001393

Court:	Court of Appeals	Classification:	Appeal - Administrative Law Court - Administrative Law Court
Short Title:	Tennisha Douglas v. SCDEW	Case Status:	Initial Briefing
View Full Title			
Consolidated:			
Filed Date:	12/01/2021	Oral Argument Date:	
Disposition Date:		Disposition Type:	
Remittitur Date:			
Lower Court or Tribunal:	2021AL220213AP		

Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Tennisha L. Douglas	N	Self Represented
Respondent	Providence Hospice, LLC	N	
Respondent	South Carolina Department of Employment and Workforce	N	Paul H. Hutchison

Views

Display: Descending Go!

Event Information

Filed Date	Event Information	Doc
01/19/2022	Correspondence - Outgoing (Appellant's Initial Brief Overdue)	
12/09/2021	Non-Dispositional Decision - Order (Motion - Proceed In Forma Pauperis or Waive Costs)	
12/06/2021	Correspondence - Outgoing (Notice of Appeal Initial Letter)	
12/03/2021	Motion - No Return (Motion - Proceed In Forma Pauperis or Waive Costs)	
12/01/2021	Motion - Proceed In Forma Pauperis or Waive Costs	
12/01/2021	Notice of Appeal (Civil) - Initial	

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Feb 09 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
Ralph King Anderson, Administrative Law Judge
Case No.: 21-ALJ-22-0213-AP

Appellate Case No. 2021-001393

Tennisha L. Douglas,

Appellant,

v.

South Carolina Department of Employment and
Workforce and Providence Hospice LLC,

Respondent(s)


PROOF OF SERVICE

I certify that I have served the Respondent's Motion to Dismiss for Failure to Timely File and Serve Appellant's Initial Brief and Designation of Matter on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, and by email on February 9, 2022, addressed to the parties at their addresses of record:

Tennisha L. Douglas
1131 Haile St
Rock Hill SC 29730

Providence Hospice LLC
500 Lakeshore Pkwy
Rock Hill SC 29730

February 9, 2022



Kristi Chesley
South Carolina Department of Employment and
Workforce
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395

P.O. Box 8597
Columbia, SC 29202
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Henry McMaster
Governor

G. Daniel Ellzey
Executive Director

Post Office Box 8597
Columbia, SC 29202
Telephone: (803) 737-0395
Fax: (803) 737-0124

February 9, 2022

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Feb 09 2022

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Tennisha L. Douglas v. SCDEW and Providence Hospice LLC
Appellate Case No: 2021-001393

Dear Ms. Kitchings:

Enclosed is the Respondent's Motion to Dismiss for Failure to Timely File and Serve Appellant's Initial Brief and Designation of Matter in the above referenced case. A proof of service is also included in this mailing.

Please let me know if you have any questions.

Sincerely,

Kristi Chesley
Administrative Legal Assistant for
Paul Famolari
Attorney for Respondent South Carolina
Department of Employment and Workforce