

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2231-15T1

FELIX PENA,

Appellant,

v.

BOARD OF REVIEW and
BRICKFORCE TRANSPORTATION,
INC.,

Respondents.

Argued January 10, 2017 – Decided February 10, 2017
Resubmitted April 27, 2017 – Decided May 16, 2017

Before Judges Fisher, Ostrer and Leone.

On appeal from the Board of Review, Department
of Labor, Docket No. 54,189.

Felix Pena, appellant, pro se.

Christopher S. Porrino, Attorney General,
attorney for respondent (Melissa Dutton
Schaffer, Assistant Attorney General, of
counsel; Marolhin D. Mendez, Deputy Attorney
General, on the brief).

Respondent Brickforce Transportation, Inc.,
has not filed a brief.

PER CURIAM

In an earlier opinion, we observed that appellant failed to participate in the Appeal Tribunal telephonic hearing, which produced the facts upon which the Appeal Tribunal determined that appellant was not entitled to unemployment benefits. In his administrative appeal to the Board, appellant claimed he was confused about how to participate at the hearing and thought the Appeal Tribunal would telephone him on the date designated in the scheduling notice. The Board, without explanation, concluded that appellant did not present good cause for failing to appear for the hearing and affirmed the denial of benefits.

Although, in our earlier opinion, we explained the framework for determining, in this instance, whether appellant voluntarily left his job -- appellant worked for a firm that provided workers to others -- we did not then reach the merits. Instead, we remanded so the Board could "expla[in] . . . its conclusion that good cause was not shown for appellant's failure to appear at the hearing." Pena v. Board of Review, No. A-2231-15 (App. Div. Feb. 10, 2017) (slip op. at 4).

In responding to our mandate, the Board rendered a decision in which it determined that appellant received and read the hearing notice, which states:

**IMPORTANT: YOU MUST CALL THE OFFICE OF APPEALS
ON THE DATE OF THE HEARING (SHOWN BELOW) 15
TO 30 MINUTES BEFORE THE SCHEDULED HEARING**

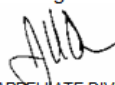
TIME. YOU WILL BE ASKED TO PROVIDE YOUR NAME, AREA CODE AND TELEPHONE NUMBER. At the time of the hearing, remain by the phone and keep the line clear. The Appeals Examiner will call you back when ready for the hearing. The Appeal Tribunal may not be able to call at the exact time set, so please remain near your phone for at least 60 minutes after the scheduled hearing time. Your appeal may be dismissed or you may be denied participation in the hearing if you fail, without good cause, to follow these instructions.

In light of this notice, which appellant acknowledged receiving and reading in advance of the hearing, the Board found no substance in appellant's contention that he misunderstood what he was required to do in order to participate at the hearing. As can be seen, the notice was written in plain, simple, and unambiguous language; consequently, we find appellant's arguments regarding the notice and his failure to appear for the hearing to be of insufficient merit to warrant further discussion. R. 2:11-3(e)(1)(E).

In light of the administrative regulations set forth in our earlier opinion, Pena, supra, slip op. at 2-3, and the finding that appellant failed to report to his employer's branch office the day after completion of his last work assignment, as required by his employment agreement, we find no merit in the appeal.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION