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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-1088-20**

TEDIAR DESANTIS,

Appellant,

v.

**BOARD OF REVIEW,
DEPARTMENT OF LABOR
and PINE BELT MANAGEMENT,
LLC,**

Respondents.

Submitted April 6, 2022 – Decided April 27, 2022

Before Judges Gilson and Gummer.

On appeal from the Board of Review, Department of Labor, Docket No. 191868.

Tediar DeSantis, appellant pro se.

Matthew J. Platkin, Acting Attorney General, attorney for respondent Board of Review (Sookie Bae-Park, Assistant Attorney General, of counsel; Kevin K.O. Sangster, Deputy Attorney General, on the brief).

PER CURIAM

Unemployment insurance claimant Tediari DeSantis appeals from a decision of the Board of Review dismissing as untimely her appeal from an unfavorable determination of the Appeal Tribunal. We affirm.

DeSantis was employed by Pine Belt Management, LLC from September 1996 to August 1, 2019, when she resigned. She filed a claim for unemployment compensation benefits. A deputy of the Division of Unemployment and Disability Insurance found she had left work voluntarily without good cause and imposed a disqualification for benefits from July 28, 2019. DeSantis timely appealed the deputy's determination with the Appeal Tribunal.

At the Tribunal hearing, DeSantis testified, asserting a stressful and hostile work environment had forced her to leave her job. Finding she had not provided medical documentation that the work had adversely affected her health, had not sought medical treatment for her perceived anxiety, and had not attempted to preserve her employment by requesting a medical leave of absence or accommodation, the Tribunal rejected her contention, concluded she had left work voluntarily without good cause attributable to the work, and affirmed the deputy's disqualification determination.

The Tribunal's decision included a page entitled "APPEAL RIGHTS." Underneath that heading, the following information was provided:

IMPORTANT: This decision will become final, unless, within twenty (20) days of the date of mailing or notification, a written appeal is filed with the Board of Review The appeal period will be extended if good cause for late filing is shown. Good cause exists in situations where it can be shown that the delay was due to circumstances beyond the control of the appellant, which could not have been reasonably foreseen or prevented.

That twenty-day deadline matches the timeframe set forth in N.J.S.A. 43:21-6(c).

At the beginning of its decision, the Tribunal stated the "Mailing Date" of its decision was October 1, 2019. Accordingly, the due date for an appeal, absent any good cause for delay, was October 21, 2019. DeSantis's appeal was received on August 27, 2020, missing the due date by 331 days. In her appeal she did not assert any good cause for missing the deadline. On November 25, 2020, the Board dismissed her appeal as untimely because she had failed to file her appeal within the required twenty days from the mailing date of the Tribunal's decision pursuant to N.J.S.A. 43:21-6(c) and had failed to show good cause under N.J.A.C. 12:20-4.1(h)(1) and (2).

In this appeal, DeSantis argues the Tribunal erred in denying her unemployment benefits and her appeal of the Tribunal's decision was "untimely due to circumstances which could not have been reasonably foreseen or

prevented." She concedes her appeal was untimely, attributing the untimeliness to "confusion in attempting to claim benefits." In the chronology she sets forth in her brief, DeSantis acknowledges the Tribunal affirmed the deputy's determination on or about October 1, 2019. She then asserts she "electronically filed another appeal on or about November 2019." She provides no proof of that electronic submission. She asserts she reopened her claim for unemployment benefits in March 2020 and received "a communication that she could begin claiming benefits." She did not submit a copy of that communication. She describes other communications she had with the Division of Unemployment Insurance in the spring and summer of 2020, including her attempt on August 2, 2020 to reopen her claim for unemployment benefits. According to DeSantis, she ultimately was told benefits were not available.

The scope of our review of an administrative agency's final determination is strictly limited. Brady v. Bd. of Rev., 152 N.J. 197, 210 (1997); see also Allstars Auto Grp., Inc. v. N.J. Motor Vehicle Comm'n, 234 N.J. 150, 157 (2018) ("Judicial review of agency determinations is limited."). An agency's decision may not be disturbed on appeal unless it is arbitrary, capricious, unreasonable, or inconsistent with applicable law. Brady, 152 N.J. at 210. "If the Board's factual findings are supported 'by sufficient credible evidence, courts are obliged

to accept them.'" Ibid. (quoting Self v. Bd. of Rev., 91 N.J. 453, 459 (1982)).

The Board's findings that DeSantis had not timely filed an appeal from the Tribunal's decision and had failed to show good cause for the untimeliness of her submission were supported by the record and applicable law. Accordingly, we affirm.

N.J.S.A. 43:21-6(c) directs that:

The parties shall be duly notified of [an appeal] tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the board of review, unless further appeal is initiated . . . within [twenty] days after the date of notification or mailing of such decision

In Rivera v. Board of Review, 127 N.J. 578, 590 (1992), the Supreme Court established that, in certain circumstances, a "good cause" exception to the time limitation on filing unemployment-compensation appeals should be employed. Subsequently, the Board promulgated a regulation establishing the factors to be considered in determining good cause. N.J.A.C. 12:20-4.1(h) provides:

A late appeal shall be considered on its merits if it is determined that the appeal was delayed for good cause. Good cause exists in circumstances where it is shown that:

1. The delay in filing the appeal was due to circumstances beyond the control of the appellant; or

2. The appellant delayed filing the appeal for circumstances which could not have been reasonably foreseen or prevented.

DeSantis admittedly failed to submit her appeal within the required twenty-day time period. Even assuming her unsupported assertion that she filed her appeal in November 2019 is correct, her appeal was untimely. She contends "months of delay" were caused by misdirection she had received from the Department of Unemployment in the spring and summer of 2020 and her difficulty in reaching representatives of the Division in the spring of 2020 at the "height of the commencement of the Covid-19 pandemic." She did not provide those purported reasons for her delay to the Board. See Zaman v. Felton, 219 N.J. 199, 226-27 (2014) (appellate courts decline to consider issues not raised in the trial court or not properly presented on appeal). Even if she had, they fail to explain why she did not file her appeal timely by October 21, 2019. Because plaintiff admittedly submitted her appeal to the Board past the twenty-day time period and failed to establish good cause for her delay, we affirm the Board's decision dismissing her appeal as untimely.

Because we affirm the Board's dismissal of her appeal as untimely, we do not address DeSantis's arguments regarding the Tribunal's decision.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION