

RYAN C. ASRI V. BOARD OF REVIEW, DEPARTMENT OF LABOR

Docket No. A-00208-23

DKT 00316964

BRIEF / APPENDIX

RECEIVED
APPELLATE DIVISION

JUL 03 2024

SUPERIOR COURT
OF NEW JERSEY

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STATEMENT OF FACTS

To be quite honest this has been going on for some time and it is sickening. From the time I started collecting my P.U.A. benefits I had literally checked with them multiple times, because I did not want to receive these benefits in the first place, they more than assured me multiple times that they were my benefits and that I was entitled to them. I am owed my benefits for the time period of, 5/1/21 to 9/4/21 the \$204 I received weekly, plus at least 5 of the \$300 extra payments where it was stated to me by multiple people at the Department of Labor that back in the Spring of 21' I was owed at least 2 months worth of these payments, but due to other individuals claiming fraudulently and in other people's names claiming twice the pot could only afford this. So here it is for quite some time there has been preponderance of Evidence and Obstruction of Justice how inept these Departments are is quite sickening and ridiculous. This is four years now I have been awaiting these benefits that were more than "in my right" to collect. And if I don't receive my benefits shortly, I will make a case against the Board of Review for 3x treble damages.

That's May 1st to September 4th \$204x11 = \$2,244. I owed my \$2,244 as well as the bare minimum of my (5) payments of the extra \$300 dollars, which comes to \$3,744 for all this time I had to suffer I should more than go for treble damages as well as pain and suffering. If I receive my benefits in a very timely manner than I won't raise the complaint. From the time I opened my claim in Aug. of 2020, I was more than aware of my rights these weren't regular Unemployment Benefits these were sent like them, but created by the Federal Government that were created for the Sudden, Unusual, and Bizarre Emergency Times and with this Global threatening Pandemic, there was understandably a wide set of circumstances accounted for, and broad guidelines that covered unemployed, employed, self-gig workers, self-employed, job-seekers, and part-time

she failed to go by. I will resend these documents if need be. So from that time in the Fall of 21'in Sep. of 2021 I had spoken with a man higher in the Department of Labor and he told me sorry for the delay but that my payments were entered in the system and would be available on my card in the coming days. He said only because other people have been claiming in other people's names at a high number, did they start locking accounts and they said it was to protect me, but that I would now be able to reaccess my benefits. Well after that there was an ID.Me I had to complete and then another ID.Me which included a live teleconference which I visually provided my driver's license and other kind of personal identifiers, and after doing so they then said my benefits would be on my card.

In Sep. of 2021, after speaking with the Individual who certainly knew what he was talking about, he again said everything was more than fine with my claim, and that he apologized for the delay and that these funds would soon appear on my card. I had gotten a Notice of Determination (Exhibit 1C) stating that if anything were wrong with my claim I'd receive notice by mail within 4 weeks, he himself said to disregard the notice that he had it in front of him and that everything was good with my claim. I received that notice in Nov. of 2021 and never received any correspondence stating anything was wrong with my claim within those 4 weeks or anytime after that. It was only then in Nov. of 2022' them looking for reasons to disqualify people stated there was now one requirement in order to obtain your remaining and certified benefits between 5/1/21 and 9/4/21 and that is an official job offer prior to Covid-19 which I provided and they accepted (and I as well was self-employed on and off beforehand when work was available. I fulfilled the requirement and should have more than at that point received my P.U.A., it's clear to see the claim's examiner in Jan. of 2023 was incompetent. She wasn't trying to be professional and do her job, it was pathetic, she was going off the record, not even looking

way out of it. I have provided notice again stating only an official job offer prior to Covid 19 was necessary, and this is only due to so many bad people committing fraud and using the system wrong, which I am not one of. The whole time I was attending school full time and continuously sought work and applied for work study, and I now work 60 hours a week with disabled individuals. They say in the 2/29/24 decision, where I have sent you an e-mail from Heather Finley the day before from State Legislation finally hitting my breaking point and taking it to them they then "All of a sudden and magically" the next day after all those months could send a decision. They now try to shift the blame to me stating I had a full and impartial hearing and a "complete opportunity" to offer any and all evidence, it sounds to me somebody knows their on the hook. When again if you could listen to the Transcript of the hearing it is laughable at how ignorant they are and you would be shaking your head, as soon as the phone interview started as soon as I got right to the facts and how I should have had this months and months ago and was providing everything she abruptly cut me off and got way off track. I implore you to request the transcript. And they are saying since in their evil mind in their liking and not wanting to be found doing wrong, that there is no ground for a further hearing, and this is why I will be going for 3x treble damages if I don't get what was mine many years ago when I suffered during a pandemic. Again as I stated to them I was self-employed and the Department of Labor had record of this, I have as well provided notice disproving their statement of Covid 19 having to disrupt work when again the requirement as stated and has only been "an official job offer prior to Covid-19". Them saying carefully examined is such an insult. Please look at the paragraph of The Continued Assistance to Unemployed Workers Act of 2020 in that decision and even then above that with the broad guidelines that she ignored and never learned, that directly mirror the State Guidelines from the Department of Labor website as in (If Table of Contents). The notice of the only



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August 16, 2024

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Re: Ryan C. Asri v. Board of Review
Docket No.: A-2208-23T2

Civil Action: On Appeal From a Final
Agency Decision of the Board of Review, Department
of Labor and Workforce Development

Letter Brief and Appendix of Respondent,
Board of Review On The Merits Of The Appeal

Dear Mr. Orlando:

Please accept this letter brief pursuant to Rule 2:6-2(b) on behalf of
Respondent, Board of Review.



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PROCEDURAL HISTORY AND COUNTERSTATEMENT OF FACTS¹

Appellant Ryan Asri (“Asri”) appeals the Board’s February 29, 2024 final agency decision affirming the Appeal Tribunal’s decision finding Asri ineligible for Pandemic Unemployment Assistance (“PUA”) because he failed to establish an attachment to the labor market as required by the CARES Act and the Continued Assistance for Unemployment Workers Act of 2020. (Ra31-33).²

Asri filed a claim for unemployment benefits on May 24, 2020. (Ra1). Prior to filing this claim, Asri last worked in 2018. Ibid. On November 7, 2022, the Deputy Director of the Division of Unemployment and Disability Insurance mailed Asri a determination imposing an ineligibility period for PUA benefits from August 1, 2021, because Asri failed to establish a labor market attachment. (Ra1; Ra24). On November 16, 2022, Asri appealed the Director’s determination to the Appeal Tribunal. (Ra1). Asri participated in a telephone hearing on January 3, 2023. Ibid. At the hearing Asri stated that he had not worked since early 2018, and even then, it was not steady employment. (T3; T8-10). Asri further told the Tribunal that on November 27, 2019, he was

¹ To avoid repetition and for the convenience of the court, the Procedural History and Counterstatement of Facts have been combined.

² “Ra” refers to respondent’s appendix. “T” refers to the January 3, 2023 transcript. “Ab” refers to appellant’s brief.

offered a job but the offer was rescinded because he did not have the necessary equipment. (T4-6).

In a decision mailed the same day, the Tribunal found that Asri was not eligible for PUA benefits from December 27, 2020, through September 4, 2021, because he could not establish a labor market attachment and his unemployment was unrelated to COVID-19 reasons identified in the Coronavirus Aid, Relief, and Economic Security Act, 15 U.S.C. 9021 (a)(3)(A). (Ra3)

On January 11, 2023, Asri appealed the Tribunal's decision to the Board of Review. (Ra31). On February 29, 2024, the Board affirmed the Tribunal's decision, rejecting Asri's claim that he was eligible for PUA because he was offered a job in November 2019 that was later rescinded. (Ra31-32). The Board also found the rescission was not due to COVID-19, making him ineligible for PUA. Ibid.

This appeal followed.

On January 25, 2024, Asri filed a motion for summary judgement with this court. (Ra34). On March 14, 2024, Asri filed a motion for default judgement, filing his appeal as within time and a fee waiver for the Tribunal's transcript at public expense. (Ra38). On May 30, 2024, the court denied Asri's motion for summary judgement, default judgment, and release of transcripts at

public expense. (Ra36-37). The court granted his motion to file notice of appeal as within time. (Ra37).

ARGUMENT

THE BOARD CORRECTLY DETERMINED THAT ASRI WAS INELIGIBLE FOR PANDEMIC UNEMPLOYMENT ASSISTANCE UNDER SECTION 2102 OF THE CARES ACT.

An appellate court’s review of an administrative agency’s decision is limited. Brady v. Bd. of Rev., 152 N.J. 197, 210 (1997). “[I]n reviewing the factual findings made in an unemployment compensation proceeding, the test is not whether an appellate court would come to the same conclusion if the original determination was its to make, but rather whether the factfinder could reasonably so conclude upon the proofs.” Ibid. (quoting Charatan v. Bd. of Rev., 200 N.J. Super 74, 79 (App. Div. 1985)). “If the factual findings of an administrative agency are supported by sufficient credible evidence, courts are obliged to accept them.” Self v. Bd. of Rev., 91 N.J. 453, 459 (1982). Unless the agency’s action was arbitrary, capricious or unreasonable, the ruling of the agency should not be disturbed by the court. Brady, 152 N.J. at 210.

The CARES Act expanded eligibility and payment for unemployment benefits for certain categories of individuals who may have been adversely

affected by COVID-19. Sullivan v. Bd. of Rev., Dep't of Labor, 471 N.J. Super. 147, 153 (App. Div. 2022). Under the CARES Act, an individual is eligible for PUA if they are ineligible for regular unemployment compensation or pandemic emergency unemployment. Ibid. If true, an individual then must provide self-certification that they are unavailable or unable to work because of one of the following COVID-19 qualifying reasons identified in Section 2102(a)(3)(A)(ii)(I):

(aa) the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(bb) a member of the individual's household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by

a health care provider to self-quarantine due to concerns related to COVID-19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;

(ii) the individual has to quit his or her job as a direct result of COVID-19;

(jj) the individual's place of employment is closed as a direct result of the COVID-19 public health emergency;
or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section;

[15 U.S.C. § 9021(a)(3)(A)(ii)(I).]

The Board correctly interpreted and applied the above provisions in this case. Asri would only qualify for PUA if he was able to demonstrate that he was unavailable or unable to work because of one of the CARES Act's COVID-19 qualifying reasons. Ibid. Asri failed to do so.

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Asri contends that he is eligible for PUA benefits because he had an “official job offer prior to COVID-19.” (Ab3).¹ While the Board acknowledged that Asri had a job offer in 2019, he testified that the offer was rescinded due to his lack of equipment, not as a direct result of the COVID-19 health emergency as required under 15 U.S.C. 9021(a)(3)(A)(ii)(I)(gg). (T6). Asri also testified that he was last attached to the labor market in early 2018, long before he applied for benefits on May 24, 2020, and even then only sparsely. (Ra1; T3-4).

Simply put, Asri failed to demonstrate that he was unavailable or unable to work due to any COVID-19 qualifying reason listed in the CARES Act. Accordingly, Asri is not entitled to PUA benefits and the Board’s decision should be affirmed.

¹ Asri’s brief filed in support of his appeal is not numbered consecutively but references herein are made as if the pages were numbered correctly.

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CONCLUSION

For the above reason, the Board's decision should be affirmed.

Sincerely yours,

MATTHEW J. PLATKIN
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