

# ARKANSAS COURT OF APPEALS

DIVISION III

No. E12-656

ERIC ROE

APPELLANT

V.

DIRECTOR, DEPARTMENT OF  
WORKFORCE SERVICES

APPELLEE

**Opinion Delivered** February 6, 2013

APPEAL FROM THE ARKANSAS  
BOARD OF REVIEW  
[NO. 2011-BR-03335]

REMANDED WITH INSTRUCTIONS  
TO SUPPLEMENT RECORD

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**PHILLIP T. WHITEAKER, Judge**

This is an unbriefed unemployment-benefits case. Eric Roe appeals a decision of the Arkansas Board of Review (Board), which concluded that he is liable to repay the Department of Workforce Services (Department) a total of \$5412 in unemployment benefits. We remand for supplementation of the record.

Eric Roe worked as a graphic artist for Baggo, Inc., until March 11, 2011, when Roe resigned in lieu of discharge. Roe filed a claim for unemployment benefits, which the Department initially granted. Baggo, Inc., appealed. On June 14, 2011, the Appeal Tribunal (Tribunal) reversed the Department's decision, determining that Roe had been discharged for misconduct in connection with work and was not entitled to benefits. Roe appealed to the Board. On June 23, 2011, the Board acknowledged receipt of Roe's appeal from the



decision of the Tribunal.<sup>1</sup> However, the decision of the Board is not in the record.

On September 9, 2011, the Department issued a “Notification of the Right to Request Waiver of Potential Overpayment”. Roe did not timely respond to the Notification. On September 26, 2011, the Department mailed to Roe a “Notice of Non-fraud Overpayment Determination”, stating that he had been overpaid benefits in the amount of \$5412. Roe appealed the overpayment determination.<sup>2</sup>

The Tribunal affirmed the Department’s determination of overpayment. Roe appealed the overpayment determination to the Board.<sup>3</sup> The Board affirmed the decision of the Tribunal. The appeal of the Board’s overpayment determination is currently before us.

Before the merits of this appeal can be reached, we must first have before us a copy of the Board’s final determination on Roe’s eligibility for benefits. An appeal of an overpayment determination while the underlying eligibility determination is still pending before the Board would be premature. *Holloway v. Director*, 2012 Ark. App. 635. Thus, we remand for supplementation of the record to include the Board’s determination on the issue of Roe’s eligibility for benefits.

GLOVER and VAUGHT, JJ., agree.

No briefs filed.

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<sup>1</sup>The initial appeal to the Tribunal on Roe’s entitlement to benefits was designated 2011-AT-05417. Roe’s appeal to the Board from the Tribunal’s denial of benefits was designated 2011-BR-01538.

<sup>2</sup>The appeal from the overpayment determination to the Tribunal was designated 2011-AT-14586.

<sup>3</sup>The appeal of the Tribunal’s determination of overpayment to the Board was designated 2011-BR-03335.