

ARKANSAS COURT OF APPEALS

DIVISION I

No. E-13-692

TNT CABLE CONTRACTORS, INC.

APPELLANT

V.

DIRECTOR, DEPARTMENT OF
WORKFORCE SERVICES, AND
CHRIS SINGLETON

APPELLEES

Opinion Delivered FEBRUARY 11, 2015

APPEAL FROM THE ARKANSAS
BOARD OF REVIEW
[NO. 2013-BR-01144]

REBRIEFING ORDERED

DAVID M. GLOVER, Judge

Appellant TNT Cable Contractors, Inc. (TNT), appeals the Board of Review's decision to award unemployment benefits to appellee Chris Singleton. On appeal, TNT contends that Singleton was an independent contractor rather than an employee, and therefore not eligible for unemployment benefits; that Singleton committed misconduct associated with his work; and that Singleton refused to accept alternative suitable jobs rather than be discharged. For the reasons discussed below, this case must be remanded for rebriefing.

TNT's abstract of Singleton's testimony consisted of six sentences:

My name is Chris Singleton. I performed work for TNT. I took my Form 1099s and receipts or my business expenses to my tax preparer. I used my personal vehicle to perform work for TNT. TNT did not reimburse me for expenses associated with that vehicle. I could no longer perform services for Suddenlink in Oklahoma because I made an unprofessional joke to a dispatcher.

In contrast, the record reflects that Singleton's testimony spanned thirty-five pages and, in some instances, it was diametrically opposed to testimony from TNT's president, Tony Hagedorn.

Rule 4-2(a)(5) of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas provides:

The appellant shall create an abstract of the material parts of all the transcripts (stenographically reported material) in the record. Information in a transcript is material if the information is essential for the appellate courts to confirm its jurisdiction, to understand the case, and to decide the issues on appeal.

Singleton's testimony was clearly persuasive to the Appeal Tribunal and to the Board of Review, which adopted part of the Appeal Tribunal's opinion as its own. Therefore, the entirety of Singleton's testimony, not just the testimony that tends to support TNT's argument, is material to the understanding of this case and to decide the issues on appeal. *See Trucks For You, Inc. v. Director*, 2014 Ark. App. 622, 447 S.W.3d 148. We remand for rebriefing. TNT's substituted abstract, addendum, and brief shall be due no more than fifteen days from the date of this opinion. Ark. Sup. Ct. R. 4-2(b)(3).

Rebriefing ordered.

ABRAMSON and HARRISON, JJ., agree.

K & L Gates LLP, by: *John M. Farrell*; and

Kutak Rock LLP, by: *James M. Gary*, for appellant.

Phyllis A. Edwards, for appellee.