

Cite as 2021 Ark. App. 294

**ARKANSAS COURT OF APPEALS**

DIVISION IV

No. E-21-51

KRISTIN CALDWELL

APPELLANT

V.

DIRECTOR, DIVISION OF  
WORKFORCE SERVICES

APPELLEE

Opinion Delivered June 2, 2021

APPEAL FROM THE ARKANSAS  
BOARD OF REVIEW  
[NO. 2020-BR-01761]

REMANDED TO SETTLE AND  
SUPPLEMENT THE RECORD

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**PHILLIP T. WHITEAKER, Judge**

Appellant, Kristin Caldwell, appeals an adverse ruling of the Board of Review affirming the Appeal Tribunal’s dismissal of her unemployment claim as untimely. Because our record does not contain a transcript of the October 21, 2020 *Paulino*<sup>1</sup> hearing conducted by the Appeal Tribunal on the timeliness issue, we remand to the Board of Review to settle and supplement the record to include the transcript of that hearing.

The procedural history of this case is as follows. On July 2, 2020, the Division of Workforce Services issued a “Notice of Determination of Entitlement” denying Caldwell’s claim for unemployment benefits. Caldwell filed an untimely appeal of the determination to the Appeal Tribunal. On October 21, 2020, the Tribunal conducted a *Paulino* hearing to determine whether the untimely filing of the appeal was due to circumstances outside

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<sup>1</sup>*Paulino v. Daniels*, 269 Ark. 676, 559 S.W.2d 760 (Ark. App. 1980).

Caldwell's control. The Tribunal subsequently decided that the circumstances surrounding Caldwell's delay in filing her appeal from the agency determination were within her control, and her appeal was therefore untimely.

Caldwell then appealed the Tribunal's decision to the Board of Review. The notice of appeal from the Tribunal was also file-marked outside the time allotted for appeal; however, at a December 30, 2020 hearing before the Board, Caldwell presented proof to the Board that she had transmitted a notice of appeal to the Board prior to the appeal deadline. At the December 30, 2020 hearing, only evidence of the timeliness of Caldwell's appeal from the Tribunal to the Board was introduced. After the hearing, the Board found that Caldwell's appeal to the Board of Review was timely but affirmed the Tribunal's decision that her appeal of the agency's determination to it had been untimely filed. Caldwell has now appealed the Board's determination denying her claim for benefits on the basis that her appeal to the Tribunal was untimely. However, because our record does not include a transcript of the October 21, 2020 *Paulino* hearing in which the timeliness issue before the Tribunal was presented, we cannot reach the merits of her claim at this time.

This case is therefore remanded to the Board of Review to settle and supplement the record to include the transcript of the October 21, 2020 hearing within thirty days.

Remanded to settle and supplement record.

GRUBER and BARRETT, JJ., agree.

*Kristin Caldwell*, pro se appellant.

*Cynthia Uhrynowycz*, Associate General Counsel, for appellee.