

Cite as 2023 Ark. App. 109  
**ARKANSAS COURT OF APPEALS**  
DIVISION I  
No. E-22-46

KASON JEWELL

APPELLANT

V.

DIRECTOR, DIVISION OF  
WORKFORCE SERVICES

APPELLEE

Opinion Delivered March 1, 2023

APPEAL FROM THE ARKANSAS  
BOARD OF REVIEW  
[NO. 2021-BR-03635]

AFFIRMED IN PART; REMANDED IN  
PART

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**BART F. VIRDEN, Judge**

Kason Jewell (“Jewell”) appeals to this court, challenging the Arkansas Board of Review’s (“Board’s”) decision requiring him to repay unemployment compensation benefits he previously received in the amount of \$12,468. He argues that he should not be required to repay this amount due to his personal financial circumstances and other related issues. We affirm in part and remand in part.

I. *Background and Procedural History*

The record indicates that Jewell received \$81 in weekly state unemployment benefits between April 4 and October 10, 2020, which amounts to a total of \$2,268. In addition, Jewell received \$600 in weekly Federal Pandemic Unemployment Compensation (“FPUC”) between April 4 and July 25, 2020, for a total of \$10,200. The record also contains a notice of agency determination dated May 6, 2021, that disqualified Jewell from receiving benefits

beginning March 30, 2020. The Board decision in this matter notes that Jewell's disqualification for unemployment benefits was ultimately upheld by the Board in a separate appeal. That underlying disqualification is not before us because the Board's decision on the matter was not appealed further. We only address the issue of repayment.

## II. *Standard of Review*

Board decisions are upheld if they are supported by substantial evidence. *Blanton v. Dir.*, 2019 Ark. App. 205, 575 S.W.3d 186. Substantial evidence is such relevant evidence that reasonable minds might accept as adequate to support a conclusion. *Id.* In appeals of unemployment-compensation cases, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Board's findings. *Id.* Even if there is evidence that could support a different decision, our review is limited to whether the Board could have reasonably reached its decision as a result of the evidence presented. *Id.* However, our function on appeal is not merely to rubber-stamp decisions arising from the Board. *Thomas v. Dir.*, 2019 Ark. App. 468, 587 S.W.3d 612; *Wilson v. Dir.*, 2017 Ark. App. 171, 517 S.W.3d 427.

## III. *Analysis*

This court's recent decision in *Carman v. Director*, 2023 Ark. App. 51, \_\_\_ S.W.3d \_\_\_, confirmed that, for purposes of overpayment of state unemployment benefits, the repayment may be waived "if the director finds that the overpayment was received as a direct result of an error by the Division of Workforce Services and that its recovery would be against equity and good conscience." *Carman*, 2023 Ark. App. 51, at 7, \_\_\_ S.W.3d at \_\_\_ (citing

Ark. Code Ann. § 11-10-532(b)(2)(A) (Supp. 2021)). *Carman* also holds that FPUC repayment may be waived if the state determines that the payment of the FPUC was without fault on the part of the individual and that such repayment would be contrary to equity and good conscience. *Id.* at 8, \_\_\_ S.W.3d at \_\_\_ (citing 15 U.S.C. § 9023(f)(2)).

In the present case, the Board found that the overpayment of benefits was a result of a final disqualifying Board determination, not agency error. We hold that there is substantial evidence to support the Board's findings. Because Jewell fails to satisfy the first prong of his state unemployment-waiver analysis, we affirm the decision requiring Jewell to repay \$2,268 in state unemployment benefits.

However, the Board also found that Jewell was not at fault in causing the overpayment. This meets the first prong of the FPUC-waiver analysis. The Board failed to make findings regarding the second prong of the FPUC analysis, i.e., whether repayment would be contrary to equity and good conscience. If adequate findings of fact are not made on the issue presented, we remand to the Board for findings of fact and conclusions of law upon which to perform proper appellate review. *Pillow v. Dir.*, 2022 Ark. App. 341, at 4. We therefore remand to the Board for findings of fact and conclusions of law regarding whether repayment of the \$10,200 in FPUC benefits would be contrary to equity and good conscience.

Affirmed in part; remanded in part.

HIXSON and MURPHY, JJ., agree.

*Kason Jewell*, pro se appellant.

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