

Cite as 2023 Ark. App. 371
ARKANSAS COURT OF APPEALS

DIVISION I
No. E-22-311

KATHY HICKS

APPELLANT

V.

DIRECTOR, DIVISION OF
WORKFORCE SERVICES; AND JOHN
CAGE ENTERPRISES

APPELLEES

Opinion Delivered September 6, 2023

APPEAL FROM THE ARKANSAS
BOARD OF REVIEW
[NO. 2021-BR-05221]

REMANDED TO SUPPLEMENT THE
RECORD

WENDY SCHOLTENS WOOD, Judge

Appellant Kathy Hicks appeals an adverse decision of the Arkansas Board of Review (the “Board”) disqualifying her from unemployment benefits under Arkansas Code Annotated section 11-10-519(a)(1) (Supp. 2023). We remand to supplement the record.

Only a brief review of the facts is necessary. The Division of Workforce Services (the “Division”) issued a notice of agency determination on June 7, 2021, disqualifying Hicks from receiving unemployment benefits under section 11-10-519(a)(1) on the basis of its determination that she had willfully made a false statement or misrepresented a material fact in her initial claim for benefits. Hicks filed an appeal of the notice to the Appeal Tribunal (the “Tribunal”).

The Tribunal affirmed the Division's determination. It found that Hicks filed an initial claim for benefits on April 7, 2020, indicating that she was working reduced hours. On the basis of evidence and testimony presented at a hearing on the matter, the Tribunal found that Hicks had not actually worked since March 17, 2020, when she left work and placed herself on quarantine due to the COVID-19 pandemic. The Tribunal concluded that Hicks knowingly made a misrepresentation of a material fact when she filed her initial claim by stating that she was working reduced hours when, in fact, she had stopped reporting to work; therefore, she was disqualified from benefits under section 11-10-519(a)(1). Hicks appealed the decision to the Board, which affirmed and adopted the decision of the Tribunal.

The basis of the Tribunal's finding that Hicks knowingly made a misrepresentation of fact is that her initial claim for benefits indicates that she was working reduced hours. However, our record does not contain this document, which is essential to our review of her appeal. In the event of a deficiency in the record, we may sua sponte direct the record to be supplemented. Ark. R. App. P.-Civ. 6(e) (2022); *Abbott v. Dir.*, 2015 Ark. App. 221.

Because we are unable to reach the merits of this appeal, we remand to the Board with specific instructions to supplement the record with Hicks's April 7, 2020 application for benefits within thirty days of this order.

Remanded to supplement the record.

VIRDEN and KLAPPENBACH, JJ., agree.

Kathy Hicks, pro se appellant.

Cynthia L. Uhrynowych, Associate General Counsel, for appellee.