

Cite as 2023 Ark. App. 374
ARKANSAS COURT OF APPEALS

DIVISION IV
No. E-22-298

DELLMARIE DAWSON

APPELLANT

V.

DIRECTOR, DEPARTMENT OF
WORKFORCE SERVICES

APPELLEE

Opinion Delivered September 6, 2023

APPEAL FROM THE ARKANSAS
BOARD OF REVIEW

[NO. 2021-BR-05253]

REMANDED FOR FURTHER
FINDINGS

WAYMOND M. BROWN, Judge

This is an unbriefed unemployment-benefits case with three other companion cases: E-22-559, E-22-560, and E-22-561. Here, in E-22-298, appellant, Dellmarie Dawson (Dawson) appeals to this court, challenging the Arkansas Board of Review's (Board's) decision, under Ark. Code Ann. § 11-10-515 (Supp. 2021), that she refused without good cause to accept an offer of suitable work, thus denying her unemployment benefits. Dawson contends that she never refused any work. However, due to inconsistencies within the record, we are not able to address the merits at this time, consequently, we remand for the record to be clarified in settling the inconsistencies and if necessary for additional findings and conclusion of law.

After a thorough review of the record, it appears that there are discrepancies that cannot be overlooked. The Board ostensibly affirms the decision made by the Tribunal in Appeal No. 2021-AT-20558. However, the referenced decision and the record as a whole

display inconsistencies regarding Dawson's dates of employment, the dates on which she allegedly refused to accept suitable work, and the dates regarding her disqualification period.

Particularly, the Tribunal stated the following in its "FINDINGS OF FACT" section:

The claimant was a temporary employee for the employer, Crossmark, from **July 20, 2021, through April 22, 2021**. The claimant was offered additional work at Sam's Club on April 22, 2021, which she refused. The work was suitable as to pay, job duties and hours.

(Emphasis added.) Then the Tribunal's determination further concluded in its "REASONING AND CONCLUSION" section:

The claimant gave testimony that she was told that there was work at Sam's, but it involved "pushing carts", which she was unable to do. The preponderance of the evidence presented indicated that the claimant was offered suitable work on **April 22, 2020** which she refused. Therefore, the claimant failed, without good cause to accept available suitable work when offered.

(Emphasis added.) Also in the record, The Department of Workforce Services (DWS) determination indicated that Dawson "refused more available hours beginning on **04-22-20**." And further determined that Dawson was "**Disqualified beginning 04-24-21**." In the DWS's AAS worksheet, the effective date is listed as "**04242020**." Last, the Doctor's statement within the record states that Dawson was not cleared to work until **April 23, 2021**.

Thus, there are several inconsistencies within the record as to what Dawson's actual disqualification period is, the dates of her temporary employment with Crossmark, and the dates she refused to accept available work with Sam's. All of which prevents our court from providing a proper review. Deficiencies in the record on appeal must be addressed if they

hinder our review of the merits. In the event of a material omission or misstatement, we may sua sponte direct the record to be settled.¹ 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.² Therefore, to remedy the inconsistencies, we remand to the Board of Review with instructions to ascertain if a mistake has been made and, if so, to provide notice to the parties and correct the record accordingly; also, if necessary for additional findings and conclusion of law.

Remanded for further findings.

ABRAMSON and GRUBER, JJ., agree.

Dellmarie Dawson, pro se appellant.

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

¹Ark. R. App. P.-Civ. 6(e); see also *Heard v. Regions Bank*, 369 Ark. 274, 276-77, 253 S.W.3d 422, 424 (2007) (per curiam); *Abbott v. Dir.*, 2015 Ark. App. 221.

²*Pillow v. Dir.*, 2022 Ark. App. 341, at 4; *Thomas v. Dir.*, 2023 Ark. App. 268, at 3-4, 668 S.W.3d 525, 527.