

Cite as 2024 Ark. App. 170  
**ARKANSAS COURT OF APPEALS**  
DIVISION IV  
No. E-22-676

SHARON CROW

APPELLANT

V.

DIRECTOR, DIVISION OF  
WORKFORCE SERVICES

APPELLEE

Opinion Delivered March 6, 2024

APPEAL FROM THE ARKANSAS  
BOARD OF REVIEW  
[NO. 2022-BR-01614]

AFFIRMED IN PART; REMANDED IN  
PART

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**CINDY GRACE THYER, Judge**

Appellant Sharon Crow appeals from an order issued by the Arkansas Board of Review (Board) affirming the determination of the Appeal Tribunal (Tribunal) requiring her to repay \$8,190 in unemployment-compensation benefits. We affirm in part and remand in part.

*I. Background and Procedural History*

The record indicates that Crow received \$90 in weekly state unemployment benefits for the weeks ending February 6, 2021, through June 26, 2021, for a total of \$1,890. In addition, Crow received \$300 in weekly Federal Pandemic Unemployment Compensation (“FPUC”) during that same time period for a total of \$6,300 in FPUC benefits. The record also contains a notice of agency determination dated May 6, 2022, that disqualified Crow

from receiving benefits beginning January 29, 2021, because she left work voluntarily and without good cause connected with the work.

On June 9, 2022, the Division issued a notice of nonfraud overpayment to Crow following the Division's determination that she had been disqualified from receiving benefits. Crow timely filed an appeal of the overpayment determination to the Tribunal. A hearing was held on the overpayment issue on June 24, 2022, after which the Tribunal found that Crow had quit her last employer and, therefore, was not entitled to benefits; that she received the benefits and was not entitled to an equity-and-good-conscience review; and that she received benefits to which she was not entitled for reasons other than fraud and must repay the benefits.

Crow timely appealed the Tribunal's decision to the Board. After reviewing the record, the Board affirmed the Tribunal's decision, finding that the overpayment was not due to Division error. Crow now appeals the overpayment determination.

## 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 on the basis 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, 660 S.W.3d 852, 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, 660 S.W.3d at 857 (quoting 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, 660 S.W.3d at 857 (citing 15 U.S.C. § 9023(f)(2)).

In the present case, the Board found that the overpayment of benefits was not due to an error by the Division. As stated above, to avoid repayment of state unemployment benefits, the overpayment must have been caused as a direct result of the Division's error, and it must be against principles of equity and good conscience to require repayment. *See* Ark. Code Ann. § 11-10-532(b)(2). Because Crow failed to satisfy the first prong of her state unemployment-waiver analysis that overpayment was received as a result of an error by the Division, we affirm the Board's decision requiring Crow to repay \$1,980 in state unemployment benefits.

However, Crow also received FPUC benefits. For the repayment of federal benefits to be waived, the Division must find that the federal payments were made without fault on the part of the claimant and that repayment would be contrary to equity and good conscience. *See* 15 U.S.C. § 9023(f)(2). Here, neither the Tribunal nor the Board performed the required federal-waiver analysis to determine whether the \$6,300 in FPUC benefits must be repaid, and no findings were made with regard to that analysis. Whether sufficient findings of fact have been made is a threshold question in an appeal from an administrative board. *Id.* If adequate findings of fact are not made on the issue presented, we remand to the Board for it to provide findings of fact and conclusions of law upon which to perform proper appellate review. *Id.* Therefore, we must remand for further findings as to, first, whether Crow was at fault and, second, whether it would be contrary to equity and good conscience to require her to repay the \$6,300 in FPUC benefits.

In sum, we affirm the decision requiring Crow to repay the \$1,890 in state benefits and remand for further findings regarding whether Crow is required to repay the \$6,300 in FPUC benefits for the reasons set forth above.

Affirmed in part; remanded in part.

ABRAMSON and VIRDEN, JJ., agree.

*Sharon Crow*, pro se appellant.

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