

Cite as 2024 Ark. App. 173  
**ARKANSAS COURT OF APPEALS**

DIVISION III  
No. E-22-653

RICKY LEE WINKLES, JR.

APPELLANT

V.

DIRECTOR, DIVISION OF  
WORKFORCE SERVICES

APPELLEE

Opinion Delivered March 6, 2024

APPEAL FROM THE ARKANSAS  
BOARD OF REVIEW

[NO. 2022-BR-01365]

REVERSED AND REMANDED

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**MIKE MURPHY, Judge**

Ricky Winkles appeals the Board of Review's (Board's) dismissal of his unemployment-benefits appeal on the basis that his untimely appeal to the Board was not due to circumstances beyond his control. We reverse and remand.

The Board found that Winkles had until May 2, 2022, to file his appeal, but the appeal was not filed until May 31. Pursuant to *Paulino v. Daniels*, 269 Ark. 676, 559 S.W.2d 760 (Ark. App. 1980), Winkles was entitled to a hearing to determine if the late filing was due to circumstances beyond his control. The Board found that Winkles was afforded a hearing on October 26, 2022, but the record contains some discrepancies that must be addressed.

First, the record contains a notice of postponement that was mailed by the Board to Winkles on October 27, 2022, stating that his October 26 hearing was rescheduled to

Thursday, November 17. (Winkles had previously indicated that he was available to participate in the October 26 hearing.) That same day a notice of telephone hearing was also mailed to Winkles confirming the November 17 date and instructing that should Winkles need to continue or postpone the hearing, he must make the request in writing to the Board of Review before the date of the hearing. On October 31, the Board received a letter from Winkles requesting that the hearing be rescheduled to accommodate his work schedule. There is nothing in the record indicating that the Board acknowledged his request. The Board called Winkles on November 17, Winkles did not answer, and the Board found that Winkles did not establish that the untimely filing was due to circumstances beyond Winkles's control.

Due to the inconsistency between the Board's finding that a hearing was conducted October 26 and the notice in the record rescheduling the same hearing to November, coupled with Winkles's written request mailed before the November date asking to reschedule, we reverse and remand to the Board with the instruction that Winkles is afforded the opportunity to be heard at a *Paulino* hearing.

Reversed and remanded.

HARRISON, C.J., and WOOD, J., agree.

*Ricky Lee Winkles, Jr.*, pro se appellant.

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