

STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellant

R.A.A.C. Docket No. 21-00992

vs.

Referee Decision No. 0062799515-02U

Employer/-None

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This case comes before the Commission for disposition of an appeal pursuant to Section 443.151(4)(c), Florida Statutes, of a decision by the appeals referee purportedly granting the claimant's request to withdraw and dismissing her appeal of a monetary determination. We affirm on other grounds.

Before the Commission, the claimant asserts that she did not withdraw her appeal at the hearing on June 10, 2021. Although the recording of the hearing reflects that the claimant did not explicitly state that she wanted to withdraw her appeal, the claimant stated on the record that she did not disagree with the monetary determination holding her not monetarily qualified for regular state reemployment assistance benefits because she had only been self-employed prior to filing her claim. Under these circumstances, the proper disposition of the referee would have been to summarily affirm the underlying determination *or* to dismiss the appeal on the ground the claimant does not disagree with the determination's resolution of the issue under review, a necessary step for presenting a bona fide appeal. *See generally* Fla. Admin. Code R. 73B-20.003(1). While the referee did not take either approach, we affirm the referee's dismissal because the claimant failed to oppose the underlying determination with evidence or legal argument. Alternatively, we conclude the record supports an affirmance on the merits for the reasons addressed below.

To be eligible to receive regular state reemployment assistance benefits, the claimant must have a minimum of \$3,400 in wage credits from insured work over two or more quarters in the claimant's base period, and the total wage credits must be at least 1.5 times the credits in the claimant's high quarter, i.e., the quarter with the greatest amount of wages paid. *See* §443.091(1)(g), Fla. Stat.; §443.111(2), Fla. Stat.; §443.036(24), Fla. Stat. The determination at issue in this case held the claimant not monetarily qualified for regular state reemployment assistance benefits as of March 29, 2020, due to the claimant not having base period wages from insured work as required under the above-cited law. Based on the claimant's Notice of

Appeal form appealing the monetary determination and her assertions made on the record on June 10, 2021, the referee correctly informed the claimant that she would not be monetarily qualified for the receipt of regular state reemployment assistance benefits on her March 29, 2020 claim because she was only self-employed prior to filing her claim. The claimant's self-employment wages would not constitute wages from employment within the meaning of the law. §443.1216(1)(a), Fla. Stat.

Notwithstanding, the claimant may be eligible for Pandemic Unemployment Assistance (PUA) benefits pursuant to the Coronavirus Aid, Relief, and Economic Security Act of 2020 ("CARES Act"), created by Public Law 116-136 (Mar. 27, 2020), as amended by the Continued Assistance for Unemployed Workers Act of 2020 (Dec. 27, 2020) (Pub. L. No. 116-260) and the American Rescue Plan Act of 2021 (Mar. 11, 2021), codified at 15 U.S.C. Chapter 116.020.¹ If the claimant has not already done so, she may apply for PUA in the Department's CONNECT system.² The Department has been contacted about adding a link on the claimant's CONNECT account to apply for PUA. We express no opinion as to whether the claimant will ultimately be eligible for PUA benefits.

¹ Under federal law, a claimant may only receive PUA when s/he is not eligible for regular state benefits. See 15 U.S.C. §9021(a)(3)(A)(i).

² For guidance, see the Department's PUA Claimant Guide *available at* <http://www.floridajobs.org/Reemployment-Assistance-Service-Center/reemployment-assistance/claimants>.

Upon review pursuant to Section 443.151(4)(c), Florida Statutes, it is found that the decision of the appeals referee is in accord with the essential requirements of law and is, therefore, affirmed.

It is so ordered.

REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

Frank E. Brown, Chairman
Thomas D. Epsky, Member
Joseph D. Finnegan, Member

This is to certify that on

7/28/2021 ,

the above order was filed in the office of the Clerk of the Reemployment Assistance Appeals Commission, and a copy mailed to the last known address of each interested party.

By: _____

Mary Griffin
Deputy Clerk



DEPARTMENT OF ECONOMIC OPPORTUNITY
REEMPLOYMENT ASSISTANCE PROGRAM
PO BOX 5250
TALLAHASSEE, FL 32314 5250



*231814598 *

IMPORTANT:	For free translation assistance, you may call 1-800-204-2418. Please do not delay, as there is a limited time to appeal.
IMPORTANTE:	Para recibir ayuda gratuita con traducciones, puede llamar al 1-800-204-2418. Por favor hágalo lo antes posible, ya que el tiempo para apelar es limitado.
ENPÒTAN:	Pou yon intèpret asistè ou gratis, nou gendwa rélé 1-800-204-2418. Sil vou plè pa pran àmpil tòn, paské tòn limité pou ou ranpli apèl la.

Docket No.: 0062 7995 15-02

Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

CLAIMANT/Appellant

EMPLOYER/Appellee

Withdrawal Of Reemployment Assistance Appeal

Important appeal rights are explained at the end of this decision.

Derechos de apelación importantes son explicados al final de esta decisión.

Yo eksplike kèk dwa dapèl enpòtan lan fen desizyon sa a.

The appellant requested that the appeal be withdrawn on June 10, 2021. Rule 73-B20.022, Florida Administrative Code, states:

WITHDRAWAL OF APPEAL: The appellant may with the approval of the appeals referee withdraw the appeal prior to or at the hearing. If the withdrawal request is made prior to the hearing, it must be in writing and signed by the appellant; if made during the hearing, it must be entered orally on the record. If approved, the referee shall issue a written decision dismissing the appeal; provided, however, the appellant may request reopening of the appeal within twenty (20) days of the date of issuance of the dismissal decision. The referee shall act upon such a request in the manner set forth in subsection 73B-20.017 regarding reopening of appeals dismissed for non-appearance of the appellant. Notwithstanding those provisions, however, a withdrawn appeal shall be reopened only upon showing that the withdrawal request was made as the result of misinformation from or coercion by the appellee or an employee of Department of Economic Opportunity. The referee approves the appellant's request for withdrawal. As a result, the appeal is dismissed.

This is to certify that a copy of the above decision was distributed/mailed to the last known address of each interested party on June 11, 2021.

S. Fredrickson
Appeals Referee

By: 

Louis Zanders, Deputy Clerk

IMPORTANT - APPEAL RIGHTS: This decision will become final unless a written request for review or reopening is filed within 20 calendar days after the distribution/mailed date shown. If the 20th day is a Saturday, Sunday or holiday defined in F.A.C. 73B-21.003(4), filing may be made on the next day that is not a Saturday, Sunday or holiday. If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the Department and set forth in a separate overpayment determination. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

A party who did not attend the hearing for good cause may request reopening, including the reason for not attending, at connect.myflorida.com or by writing to the address at the top of this decision. The date of the confirmation page will be the filing date of a request for reopening on the Department's Web Site.

A party who attended the hearing and received an adverse decision may file a request for review to the Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (Fax: 850-488-2123); <https://raaciap.floridajobs.org>. If mailed, the postmark date will be the filing date. If faxed, hand-delivered, delivered by courier service other than the United States Postal Service, or submitted via the Internet, the date of receipt will be the filing date. To avoid delay, include the docket number and the last five digits of the claimant's social security number. A party requesting review should specify any and all allegations of error with respect to the referee's decision, and provide factual and/or legal support for these challenges. Allegations of error not specifically set forth in the request for review may be considered waived.

There is no cost to have a case reviewed by the Commission, nor is a party required to be represented by an attorney or other representative to have a case reviewed. The Reemployment Assistance Appeals Commission has not been fully integrated into the Department's CONNECT system. While correspondence can be mailed or faxed to the Commission, no correspondence can be submitted to the Commission via the CONNECT system. All parties to an appeal before the Commission must maintain a current mailing address with the Commission. A party who changes his/her mailing address in the CONNECT system must also provide the updated address to the Commission, in writing. All correspondence sent by the Commission, including its final order, will be mailed to the parties at their mailing address on record with the Commission.

IMPORTANTE - DERECHOS DE APELACIÓN: Esta decisión pasará a ser final a menos que una solicitud por escrito para revisión o reapertura se registre dentro de 20 días de calendario después de la distribución/fecha de envío marcada en que la decisión fue remitida por correo. Si el vigésimo (20) día es un sábado, un domingo o un feriado definidos en F.A.C. 73B-21.003(4), el registro de la solicitud se puede realizar en el día siguiente que no sea un sábado, un domingo o un feriado. Si esta decisión descalifica y/o declara al reclamante como inelegible para recibir beneficios que ya fueron recibidos por el reclamante, se le requerirá al reclamante rembolsar esos beneficios. La cantidad específica de cualquier sobrepago [pago excesivo de beneficios] será calculada por la Agencia y establecida en una determinación de pago excesivo de beneficios que será emitida por separado. Sin embargo, el límite de tiempo para solicitar la revisión de esta decisión es como se establece anteriormente y dicho límite no es detenido, demorado o extendido por ninguna otra determinación, decisión u orden.

Una parte que no asistió a la audiencia por una buena causa puede solicitar una reapertura, incluyendo la razón por no haber comparecido en la audiencia, en connect.myflorida.com o escribiendo a la dirección en la parte superior de esta decisión. La fecha de la página de confirmación será la fecha de presentación de una solicitud de reapertura en la página de Internet del Departamento.

Una parte que asistió a la audiencia y recibió una decisión adversa puede registrar una solicitud de revisión con la Comisión de Apelaciones de Servicios de Reempleo; Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (Fax: 850-488-2123); <https://raaciap.floridajobs.org>. Si la solicitud es enviada por correo, la fecha del sello de la oficina de correos será la fecha de registro de la solicitud. Si es enviada por telefax, entregada a mano, entregada por servicio de mensajería, con la excepción del Servicio Postal de Estados Unidos, o realizada vía el Internet, la fecha en la que se recibe la solicitud será la fecha de registro. Para evitar demora, incluya el número de expediente [docket number] y los últimos cinco dígitos del número de seguro social del reclamante. Una parte que solicita una revisión debe especificar cualquiera y todos los alegatos de error con respecto a la decisión del árbitro, y proporcionar fundamentos reales y/o legales para substanciar éstos desafíos. Los alegatos de error que no se establezcan con especificidad en la solicitud de revisión pueden considerarse como renunciados.

No hay ningún costo para tener un caso revisado por la Comisión, ni es requerido que una parte sea representado por un abogado u otro representante para poder tener un caso revisado. La Comisión de Apelación de Asistencia de Reempleo no ha sido plenamente integrado en el sistema CONNECT del Departamento. Mientras que la correspondencia puede ser enviada por correo o por fax a la Comisión, ninguna correspondencia puede ser sometida a la Comisión a través del sistema CONNECT. Todas las partes en una apelación ante la Comisión deben mantener una dirección de correo actual con la Comisión. La parte que cambie su dirección de correo en el sistema CONNECT también debe proporcionar la dirección actualizada a la Comisión, por escrito. Toda la correspondencia enviada por la Comisión, incluida su orden final, será enviada a las partes en su dirección de correo en el registro con la Comisión.

ENPÒTAN - DWA DAPÈL: Desizyon sa a ap definitiv sòf si ou depoze yon apèl nan yon delè 20 jou apre dat distribisyon/postaj. Si 20yèm jou a se yon samdi, yon dimanch oswa yon jou konje, jan sa defini lan F.A.C. 73B-21.003(4), depo an kapab fèt jou aprè a, si se pa yon samdi, yon dimanch oswa yon jou konje. Si desizyon an diskalifye epi/oswa deklare moun k ap fè demann lan pa kalifye pou alokasyon li resevwa deja, moun k ap fè demann lan ap gen pou li remèt lajan li te resevwa a. Se Ajans lan k ap kalkile montan nenpòt ki peman anplis epi y ap detèmine sa lan yon desizyon separe. Sepandan, delè pou mande revizyon desizyon sa a se delè yo bay anwo a; Okenn lòt detèminasyon, desizyon oswa lòd pa ka rete, retade oubyen pwolonje dat sa a.

Yon pati ki te gen yon rezon valab pou li pat asiste seyans lan gen dwa mande pou yo ouvri ka a ankò; fòk yo bay rezon yo pat ka vini an epi fè demann nan sou sitwèb sa a, connect.myflorida.com oswa alekri nan adrès ki mansyone okomansman desizyon sa a. Dat cofimasyon page sa pral jou ou ranpli deman pou reouvewti dan web sit depatman.

Yon pati ki te patisipe nan odyans lan e ki resevwa yon desizyon negatif kapab soumèt yon demann pou revizyon bay Komisyon Apèl pou Asistans Reyanbochaj, Reemployment Assistance Appeals Commission, 1211 Governors Square Boulevard, Suite 300, Tallahassee, FL 32301-2975; (Faks: 850-488-2123); <https://raaciap.floridajobs.org>. Si apèl la te fèt pa lapòs, dat tenm lan ap dat li depoze. Si li te fakse, delivre a lamèn, delivre pa lòt sèvis kourye ki pa Sèvis Postal Etazini (United States Postal Service), oswa li te soumèt sou Entènèt, dat yo te resevwa ap dat li depoze. Pou evite reta, mete nimewo rejis la ak senk dènye chif nimewo sekirite sosyal demandè a. Yon pati k'ap mande revizyon ta dwe presize nenpòt ak tout alegasyon erè ki gen rapò ak desizyon abit la, epi bay sipò reyèl ak/oswa legal pou defi sa yo. Yo pral konsidere kòm anile, alegasyon erè ki pa etabli espesifikman nan demann pou revizyon.

Pa gen okenn kou pou Komisyon an revize yon ka, ni ke yon pati dwe reprezante pa yon avoka oubyen lòt reprezantan pou ke la li a revize. Komisyon Apèl Asistans Reyanbochaj pa te entegre antyèman nan sistèm CONNECT Depatman an. Byenke korespondans kapab fakse oubyen pòste bay Komisyon an, okenn korespondans pa kapab soumèt bay Komisyon an atravè sistèm CONNECT. Tout pati ki nan yon apèl devan Komisyon an dwe mentni yon adrès postal ki ajou avèk Komisyon an. Yon pati ki chanje adrès postal li nan sistèm CONNECT la dwe bay Komisyon an adrès ki mete ajou a tou. Tout korespondans ke Komisyon an voye, sa enkli manda final li, pral pòste voye bay pati yo nan adrès postal yo genyen nan achiv Komisyon an.