

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT  
OF HINDS COUNTY, MISSISSIPPI

**FILED**

CITY OF JACKSON

APPELLANT

VS.

DEC 28 2015

BARBARA DUNN, CIRCUIT CLERK

CIVIL NO: 251-15-309

MISSISSIPPI DEPARTMENT  
OF EMPLOYMENT SECURITY and  
LARA GILL

BY \_\_\_\_\_ D.C.

APPELLEES

**ORDER**

The Court having considered the record, and being otherwise fully advised, is of the opinion the decision of the Board of Review of the Mississippi Department of Employment Security should be affirmed.

Appeals to the Circuit Court from an administrative agency such as the Board are governed by Rule 5.03 of the Uniform Rules of County and Circuit Court. Rule 5.03 states the Court will only entertain an appeal to determine if the order of the administrative body was:

1. supported by substantial evidence; or
2. arbitrary and capricious; or
3. beyond the power of the lower authority to make; or
4. violated some statutory or constitutional right of the complaining party.

The ALJ determined Gill did not commit willful misconduct as defined by *Wheeler v. Arriola*, 408 So. 2d 1381 (Miss. 1982) and thus determined she is entitled to unemployment benefits. The ALJ was the fact finder and this Court cannot reweigh the evidence so long as the decision is supported by substantial evidence.

The City of Jackson failed to appeal the decision of the ALJ within fourteen (14) days to the Board of Review and thus the Board dismissed the appeal for lack of jurisdiction finding that the ALJ decision had become final. *See* Miss. Code § 71-5-51; *Miss. Emp. Sec. Comm'n v. Marion County Sherriff's Dept.*, 856 So. 2d 1153 (Miss. 2004); *Wilkerson v. Miss. Emp. Sec. Comm'n.*, 630 So. 2d 1000 (Miss. 1994)(fourteen days provided by statute is to be strictly construed).

This Court finds the City has failed to demonstrate good cause for being late and thus the decision of the Board should be affirmed. The City wishes to focus on the fact the ALJ decision was mailed to Debra Johnson (former employee) and not Beverly Wallace (current employee).

Case: 25CI1:15-cv-00309-WAG Document #: 14 Filed: 01/04/2016 Page 2 of 2

However, this Court would point to the fact that regardless of whether the former employee or the new employee was listed on the envelope, it was addressed to the same PO Box which was correct and did not change. The City argues in its Brief before this Court, "Beverly Wallace had been corresponding with the Commission and used letterhead which identified her department and the address for the department as 1000 Metrocenter, Ste. 102, Post Office Box 17, Jackson MS 39205-0017." Looking at the ALJ decision it lists the correct PO Box.

**IT IS THEREFORE ORDERED AND ADJUDGED**, that the decision of the Board of Review should be and the same is hereby **AFFIRMED**.

**SO ORDERED**, this the 28<sup>th</sup> day of December, 2015.

  
\_\_\_\_\_  
JUDGE WILLIAM GOWAN