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DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
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Commissioner

BOARD OF REVIEW

**MINUTES OF REGULAR MEETING OF
THE BOARD OF REVIEW
FEBRUARY 10, 2021**

NANCY HUNT, CHAIRPERSON

WILLIAM SCAGLIONE, VICE-CHAIR

ANDREA JACKSON, ACTING EXECUTIVE SECRETARY

BOARD OF REVIEW MEETING FEBRUARY 10, 2021

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A regular meeting of the Board of Review was held on Wednesday, February 10, 2021 at 10:00 a.m., via conference call, in Trenton, New Jersey

PRESENT: Nancy Hunt, Chairperson, William Scaglione, Vice-Chairperson, Andrea Jackson, Acting Executive Secretary,

In accordance with L1975, c.231, the Chairperson to the Board of Review opened the meeting with the following statement:

Notice of this meeting was filed with the Secretary of State and sent to the Trenton Times, Newark Star Ledger and Courier Post and posted in the Lobby of the Department of Labor, 1 John Fitch Plaza, Trenton, New Jersey.

All actions were by unanimous vote unless otherwise specified.

BOARD OF REVIEW MINUTES – FEBRUARY 10, 2021 MEETING

BOARD MINUTES:

Submitted for adoption are the minutes of the February 3, 2021 Board meeting.

ACTION: BOARD VOTED TO ADOPT THE MINUTES OF THE FEBRUARY 3, 2021 BOARD MEETING.

OLD BUSINESS:

1. CINDY DEFORGE BOR DKT. 00217190

Claimant appealed the Appeal Tribunal decision holding the unemployment claim valid with a weekly benefit rate of \$263.00. **(This case was tabled in the meeting of January 27, 2021 pending further review.)**

ACTION: BOARD VOTED TO AFFIRM THE APPEAL TRIBUNAL DECISION HOLDING THE UNEMPLOYMENT CLAIM VALID.

2. HECTOR NUÑEZ BOR DKT. 00218486

Claimant appealed the decision of the Appeal Tribunal holding an ineligibility for benefits as the claimant was employed full-time. **(This case was tabled in the meeting of January 27, 2021 pending further review.)**

ACTION: BOARD VOTED TO TABLE THIS CASE TO A FUTURE AGENDA FOR FURTHER REVIEW IN ORDER TO RECEIVE CLARIFICATION FROM U.S. DOL REGARDING THIS SITUATION UNDER THE CARES ACT.

3. HECTOR NUÑEZ BOR DKT. 00218493

Claimant appealed the decision of the Appeal Tribunal holding an ineligibility for benefits as the claimant was employed full-time. **(This case was tabled in the meeting of January 27, 2021 pending further review.)**

ACTION: BOARD VOTED TO TABLE THIS CASE TO A FURTHER AGENDA FOR FURTHER REVIEW IN ORDER TO

BOARD OF REVIEW MINUTES – FEBRUARY 10, 2021 MEETING

RECEIVE CLARIFICATION FROM U.S. DOL REGARDING THIS SITUATION UNDER THE CARES ACT.

SECTION A – HEARING MATTERS

A-1 DISMISSALS OF LATE APPEALS TO THE BOARD OF REVIEW

1. SABRINA PIERRE BOR DKT. 00209855

Claimant appealed a decision of the Appeal Tribunal dismissing the appeal as late without good cause.

ACTION: BOARD VOTED TO ACCEPT THE ABOVE CASE AS A DISMISSAL OF A LATE APPEAL TO THE BOARD OF REVIEW.

A-2 AFFIRMATIONS OF APPEAL TRIBUNAL DECISIONS

1. FRED BURG BOR DKT. 00184393

Claimant appealed a decision of the Board of Review which affirmed the Appeal Tribunal's decision holding the claimant ineligible for benefits as the claimant had reasonable assurance of reemployment between terms.

2. RYAN JENKINS BOR DKT. 00214722

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work.

3. SAMUEL THOMPSON BOR DKT. 00216647

Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work and a denial of Pandemic Unemployment Assistance (PUA) benefits as the claimant's unemployment was not due to one of the COVID-19 related reasons.

4. LISA JOHNSON-YOUNG BOR DKT. 00210825

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily and subsequent toll out.

5. GARDNER CURTIS BOR DKT. 00224789

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- Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under ability to work.
6. RUTH FEUERSTEIN BOR DKT. 00215789
- Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for regular and Pandemic Unemployment Assistance (PUA) benefits.
7. SALWA MIKHAIL BOR DKT. 00222781
- Claimant appealed the decision of the Appeal Tribunal holding the claimant employed full-time and liability for a non-fraud refund.
8. JANET TEDESCO BOR DKT. 00212259
- Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work.
9. LETREAVITE MCCOLLUM BOR DKT. 00219234
- Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work and liable for non-fraud refund.
10. PAIGE NAPOLIELLO BOR DKT. 00217141
- Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work.
11. MICHAEL DEVITO BOR DKT. 00220276
- Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work.
12. ALEXANDER CRESPO BOR DKT. 00225005
- Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work and holding the claimant liable for non-fraud refund.
13. LAURA MARQUEZ BOR DKT. 00219848

BOARD OF REVIEW MINUTES – FEBRUARY 10, 2021 MEETING

Claimant appealed the decision of the Appeal Tribunal holding the claim invalid as there were insufficient base year weeks and wages.

14. PAUL WRIGHT BOR DKT. 00219501

Claimant appealed a decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily and also that subsequent weeks and wages were insufficient to remove the disqualification, and not ineligible for benefits under ability to work.

15. DANIELLE STEPHENS BOR DKT. 00218125

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work.

16. JESUS PATINO BOR DKT. 00218128

Employer appealed the decision of the Appeal Tribunal holding no disqualification of benefits for leaving work voluntarily without good cause attributable to the work.

17. JOSEPH SCHOTT BOR DKT. 00219923

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work. **(Board voted to modify the Appeal Tribunal decision).**

18. LAYA COHEN BOR DKT. 00212892

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work.

19. KATHLEEN PELLICCIA BOR DKT. 00219782

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work.

20. CARMEN COLON BOR DKT. 00221390

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily and holding the claimant liable for a non-fraud refund.

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21. GAIL KOWNACKY BOR DKT. 00220062

Claimant appealed a decision dismissing the appeal as late without good cause.

22. GHADA MOURCOS BOR DKT. 00218945

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work, and holding the claimant liable for a non-fraud refund.

23. PATRICIA DEMPSEY BOR DKT. 00219187

Employer appealed the decision of the Appeal Tribunal holding no pension offset as the claimant did not work for this employer during the base year, and holding no liability for a non-fraud refund.

24. JENNIFER HILL BOR DKT. 00225638

Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work.

25. ELLYNN HARVEY BOR DKT. 00224696

Claimant appealed a decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily.

26. TYSON HAMILTON BOR DKT. 00213983

Claimant appealed a decision of the Appeal Tribunal holding claimant ineligible for benefits under availability for work.

27. GABRIEL CORDERO BOR DKT. 00212927

Claimant appealed a decision of the Appeal Tribunal which denied the claimant's request for a pre-date of an unemployment claim.

28. ZIHADUL SHAH BOR DKT. 00218651

Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work and a liability for a non-fraud refund.

29. DONNA MIGUEL BOR DKT. 00219730

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Claimant appealed a decision of the Appeal Tribunal holding the claimant liable for a non-fraud refund as the claimant was employed with earnings.

30. STEVEN VOGELBAUM BOR DKT. 00224022

Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work, and holding the claimant liable for a non-fraud refund.

31. RANDY HANENBERG BOR DKT. 00221593

Claimant appealed the decision of the Appeal Tribunal holding the claimant employed full-time and liability for a non-fraud refund.

32. JOHN VILLARI BOR DKT. 00219246

Claimant appealed a decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily and liable for a non-fraud refund. **(Board voted to Remand to the Appeal Tribunal to rule on the PUA determination).**

33. JESUMENE POLYNICE BOR DKT. 0022370

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for misconduct connected with the work.

34. AGUSTIN RAYO BOR DKT. 00218739

Claimant appealed the decision of the Appeal Tribunal dismissing the appeal, in part, as late without good cause, holding the claimant ineligible for benefits under active search for work and holding the claimant not unemployed.

ACTION: BOARD VOTED TO ACCEPT THE REMAINING 32 CASES AS AFFIRMATIONS OF APPEAL TRIBUNAL DECISIONS.

A-3 REVERSALS OF APPEAL TRIBUNAL DECISIONS

1. CORY DRUMMOND BOR DKT. 00214412

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Employer appealed a decision of the Appeal Tribunal holding no disqualification of benefits for leaving work voluntarily without good cause attributable to the work, and not liable for a non-fraud refund.

2. DAWN CIVITELLO BOR DKT. 00222895

Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits as the claimant had reasonable assurance of reemployment between terms, and liable for a non-fraud refund.

3. SHANTAE SMITH BOR DKT. 00208262

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work. **(Board voted to reverse the Appeal Tribunal decision)**

ACTION: BOARD VOTED TO ACCEPT THE ABOVE CASES AS REVERSALS OF APPEAL TRIBUNAL DECISIONS.

A-4 MODIFICATIONS OF APPEAL TRIBUNAL DECISIONS

1. RALPH HANDY BOR DKT. 00213112

Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under ability to work.

2. SNJEZNAS LUKIN BOR DKT. 00217940

Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work.

3. ANSSA RANA BOR DKT. 00223091

Claimant appealed a decision of the Appeal Tribunal holding the claimant not ineligible for benefits for reporting in accordance with the regulations of the Division, and ineligible for benefits for not reporting in accordance with the regulations of the Division.

4. PHYLLIS COYER BOR DKT. 00219188

Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work, a denial of Pandemic Unemployment Assistance (PUA) benefits as the claimant's unemployment was

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not due to one of the COVID-19 related reasons and a liability for a non-fraud refund.

5. DAVID ROSOWSKI BOR DKT. 00203736

Claimant appealed a decision of the Appeal Tribunal holding the claimant liable for a non-fraud refund.

6. STEPHANIE GALAN BOR DKT. 00221761

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work. **(Board voted to Remand to the Appeal Tribunal to rule on the claimant's eligibility for PUA).**

7. ANA RAMOS BOR DKT. 00222767

Claimant appealed a decision of the Appeal Tribunal holding no disqualification of benefits for leaving work voluntarily, ineligible for benefits under availability for work, and liable for a non-fraud refund.

ACTION: BOARD VOTED TO ACCEPT THE REMAINING SIX CASES AS MODIFICATIONS OF APPEAL TRIBUNAL DECISIONS.

A-5 REQUESTS FOR RECONSIDERATION OF BOARD OF REVIEW DECISION

1. MARIA STAVRAKIS BOR DKT. 00219830

Claimant appealed the decision of the Appeal Tribunal holding the claimant ineligible for benefits as the claimant had reasonable assurance of reemployment between terms.

ACTION: BOARD VOTED TO ACCEPT THE ABOVE CASE AS A REQUEST FOR RECONSIDERATION OF THE BOARD OF REVIEW'S DECISION.

A-6 REOPENED AND REMANDED DECISIONS TO THE APPEAL TRIBUNAL OR THE DEPUTY

1. DMITRY YAVICH BOR DKT. 00179375

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Appellate Division accepted the Board of Review’s request to set aside its decision and to remand the decision of the Appeal Tribunal to consider the merits of the appeal.

ACTION: BOARD VOTED TO ACCEPT THE ABOVE CASES AS A REOPENED AND REMANDED APPEAL TO THE APPEAL TRIBUNAL OR THE DEPUTY.

A-7 REMANDED APPEALS TO THE APPEAL TRIBUNAL OR THE DEPUTY

1. ROBERT MITTEN BOR DKT. 00213788

Claimant appealed the Appeal Tribunal decision holding the unemployment claim invalid on the ground that the claimant was on a leave of absence.

2. SAKINATOU DIABATE BOR DKT. 00216446

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily and a liability to a non-fraud refund.

3. HANAN AHMED BOR DKT. 00217409

Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work.

4. GWENN SEEMEL BOR DKT. 00225012

Claimant appealed the decision of the Appeal Tribunal holding the claimant not unemployed and liable for a non-fraud refund.

5. KIMBERLY PEREZ SOLIS BOR DKT. 00222761

Claimant appealed a decision of the Appeal Tribunal dismissing the appeal through the date the determination was mailed, and holding the claimant ineligible for benefits under ability to work.

6. LASARAH CAPO BOR DKT. 00223070

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily without good cause attributable to the work.

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7. MELISSA APONTE BOR DKT. 00219748

Claimant appealed the decision of the Appeal Tribunal dismissing the appeal as late without good cause. **(This case is reversed and remanded)**

8. DAURLIN ESTRELLA BOR DKT. 00222475

Claimant appealed the denial of Pandemic Unemployment Assistance (PUA) benefits as the claimant did not show an attachment to the labor market in 2019.

9. NICHOLAS BERGEVIN BOR DKT. 00221846

Claimant appealed the decision of the Appeal Tribunal holding the claimant ineligible for regular and Pandemic Unemployment Assistance (PUA) benefits.

ACTION: BOARD VOTED TO ACCEPT THE ABOVE CASES AS REMANDS TO THE APPEAL TRIBUNAL OR THE DEPUTY.

SECTION B - MISCELLANEOUS MATTERS/CASES FOR DISCUSSION

- B-1 SAMUEL AYALEW BOR DKT. 00215394

Employer appealed the decision of the Appeal Tribunal holding no disqualification of PUA benefits for leaving work voluntarily without good cause attributable to the work. **(Appellate Specialist Jackson)**

ACTION: BOARD VOTED TO REMAND TO THE APPEAL TRIBUNAL TO RULE ON THE ISSUE OF THE VOLUNTARY LEAVING SEPARATION ON THE REGULAR CLAIM AND TO ADD AND ADDRESS THE PUA ISSUE.

- B-2 ROLAND MORETA BOR DKT. 00218010

Claimant appealed a decision of the Appeal Tribunal holding the claimant liable for fraud refund and a disqualification of benefits for illegal receipt or attempted receipt of benefits. **(Appellate Specialist Alverio)**

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ACTION: BOARD VOTED TO AFFIRM THE APPEAL TRIBUNAL DECISION.

B-3 JAIANA ARCHIE BOR DKT. 00223713

Claimant appealed a denial of Pandemic Unemployment Assistance (PUA) benefits as the claimant's unemployment was not due to one of the COVID-19 related reasons. (**Appellate Specialist Matos**)

ACTION: BOARD VOTED TO REMAND THIS CASE TO THE APPEAL TRIBUNAL FOR ADDITIONAL TESTIMONY AS TO WHY THE CLAIM FOR BENEFITS WAS FILED IN APRIL 2020 AND TO ADDRESS THE CLAIMANT'S ENTITLEMENT TO REGULAR OR PUA BENEFITS.

B-4 MAXWELL ZOLLER BOR DKT. 00221629

Claimant appealed the decision of the Appeal Tribunal dismissing the appeal as late without good cause. (**Appellate Specialist Jackson**)

ACTION: BOARD VOTED AFFIRM THE APPEAL TRIBUNAL DECISION.

B-5 JESSICA ROSARIO BOR DKT. 00218579

Claimant appealed a decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily, ineligible for Pandemic Unemployment Assistance (PUA) benefits, and liable for a non-fraud refund. (**Appellate Specialist Zola**)

ACTION: BOARD VOTED TO MODIFY THE APPEAL TRIBUNAL DECISION TO SAY THAT THE CLAIMANT REMAINS DISQUALIFIED FOR VOLUNTARILY LEAVING, BUT HOLD THE CLAIMANT QUALIFIED FOR PUA BENEFITS.

B-6 CLEOTILDE RUBIO BOR DKT. 00222757

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Claimant appealed a decision of the Appeal Tribunal holding the claimant ineligible for benefits under availability for work and a potential liability to a non-fraud refund. (**Appellate Specialist Hart**)

ACTION: BOARD VOTED TO AFFIRM THE APPEAL TRIBUNAL DECISION.

B-7 ERIC HOOLERBACH BOR DKT. 00225353

Claimant appealed a decision of the Appeal Tribunal holding the claimant liable for a non-fraud refund. (**Appellate Specialist Matos**)

ACTION: BOARD VOTED TO AFFIRM THE APPEAL TRIBUNAL DECISION WITH AN ADDITIONAL STATEMENT INDICATING THAT THE CLAIMANT MAY WISH TO SUBMIT HIS 2019 TAX RETURN FOR A POTENTIAL MONETARY REDETERMINATION.

B-8 SHANTE CONLEY BOR DKT. 00221430

Claimant appealed the decision of the Appeal Tribunal holding a disqualification of benefits for leaving work voluntarily. (**Appellate Specialist Jackson**)

ACTION: BOARD VOTED TO TABLE THIS CASE TO A FUTURE AGENDA TO SEND CORRESPONDENCE TO THE CLAIMANT TO DETERMINE WHY SHE DIDN'T ANSWER HER PHONE WHEN CALLED ON THE DATE OF THE HEARING.

B-9 EMMA JUBERT BOR DKT. 00223212

Claimant appealed a denial of Pandemic Unemployment Assistance (PUA) benefits as the claimant had insufficient base year wages to establish a valid claim. (**Appellate Specialist Jackson**)

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ACTION: BOARD VOTED TO REMAND TO THE APPEAL TRIBUNAL FOR FURTHER TESTIMONY AND FOR THE CLAIMANT TO PRODUCE EVIDENCE OF A BONA FIDE OFFER OF WORK.

B-10 EMMA JUBERT

BOR DKT. 00223214

Claimant appealed the decision of the Appeal Tribunal which denied the claimant's request for a pre-date of an unemployment claim. (**Appellate Specialist Jackson**)

ACTION: BOARD VOTED TO REMAND TO THE APPEAL TRIBUNAL TO BE HEARD IN CONJUNCTION WITH DKT00223212 TO DETERMINE THE CLAIMANT'S ENTITLEMENT TO A PRE-DATE UNDER THE CARES ACT.