

Circuit Court for Montgomery County
Case No. C-15-CV-23-003673

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 665

September Term, 2024

IN THE MATTER OF MERON GIRMA

Beachley,
Albright,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 4, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority

In 2022, the Department of Labor’s Division of Unemployment Insurance (the Department) issued a notice of benefit determination to Meron Girma, appellant, finding that she had knowingly failed to report certain wages that she received, while also receiving unemployment benefits. Appellant appealed that decision to the Department of Labor’s Lower Appeals Division, which scheduled a hearing for the appeal on June 2, 2023. When appellant failed to appear at that hearing, the Lower Appeals Division dismissed her appeal. It mailed the notice of dismissal on June 5, 2023, informing appellant that she could seek to reopen the case for good cause shown by filing a written application within seven business days of the decision date.

Appellant filed an application to reopen the dismissed appeal on July 10, 2023. In that application, she asserted that she had missed the hearing because: (1) she had previously called the Lower Appeals Division and been told that there was a backlog in scheduling hearings, and (2) she did not see the email that was sent to her regarding the hearing date because she did not have access to a personal computer. A hearing examiner denied the application to reopen the appeal.

Appellant appealed to the Board of Appeals (the Board) which affirmed the hearing examiner’s decision. In doing so, the Board found that appellant’s application to reopen the appeal was untimely. Moreover, it determined that she had not demonstrated good cause to reopen the appeal because she had elected to receive all of her communications from the Lower Appeals Division by email, rather than regular mail, and thus it was incumbent upon her to either make arrangements to have email access, or to change her preferred communication method if she was unable to do so.

Appellant then sought judicial review in the Circuit Court for Montgomery County, which affirmed the Board’s decision. This appeal followed. On appeal, appellant raises two issues, which reduce to one: whether the Board erred in denying her application to reopen the dismissed appeal.¹ For the reasons that follow, we shall affirm.

“When we review the decision of an administrative agency or tribunal, ‘we [assume] the same posture as the circuit court . . . and limit our review to the agency’s decision.’” *Sugarloaf Citizens Ass’n. v. Frederick Cnty. Bd. of Appeals*, 227 Md. App. 536, 546 (2016) (quoting *Anderson v. Gen. Cas. Ins. Co.*, 402 Md. 236, 244 (2007)). If the Board’s decision was supported by substantial evidence, and if it committed no error of law, we must affirm. *Id.* at 546.

Pursuant to COMAR 09.32.11.02(P)(2), a hearing examiner may only grant a request to reopen a dismissed case if (1) the party received the hearing notice on or after the date of the hearing; (2) an emergency or other unforeseen and unavoidable circumstance prevented the party from both attending the hearing and requesting a postponement of the hearing; or (3) a party requested a postponement before the hearing but it was improperly denied. Moreover, a request to reopen a case “shall be delivered or postmarked within 7 days after the date the dismissal was mailed to the last known address of the requesting party.” COMAR 09.32.11.02(P)(4).

¹ In her questions presented, appellant challenges the merits of the Department’s determination that she knowingly failed to report wages. However, because her appeal from those determinations was dismissed, the only issue that we may consider in this appeal is whether the Board erred in denying her request to reopen the dismissed cases.

Here, appellant’s application to reopen the dismissed case was untimely as it was filed more than seven days after the dismissal order was mailed. And there is no good cause provision that would have allowed the Lower Appeals Division to excuse her failure to file a timely application. Moreover, although appellant’s application set forth several reasons why she failed to attend the scheduled hearing, it did not explain why she had waited over one month to request that her dismissed appeal be reinstated. Consequently, the Board did not err in affirming the decision of the Lower Appeals Division denying appellant’s request to reopen her dismissed appeal.

**JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**