

STATE OF MICHIGAN
IN THE COURT OF APPEALS

MICHIGAN EMPLOYMENT SECURITY
COMMISSION,

Appellant,

v

MONKMAN CONSTRUCTION,

Appellee.

UNPUBLISHED

Court of Appeals
Docket No. 176053

Lower Court Docket
No. 93-462549-AE

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OPINION

STATE OF MICHIGAN
COURT OF APPEALS

MICHIGAN EMPLOYMENT SECURITY
COMMISSION,

UNPUBLISHED
May 7, 1996

Plaintiff-Appellant,

v

No. 176053
LC No. 93-462549

MONKMAN CONSTRUCTION,

Defendant-Appellee.

Before: MacKenzie, P.J., and Cavanagh and T.L. Ludington,* JJ.

PER CURIAM.

Plaintiff appeals by leave granted the circuit court order affirming the decision of the Michigan Employment Security Commission (MESC) Board of Review in favor of defendant. In its decision, the Board reversed the decision of the referee upholding plaintiff's denial of defendant's request for redetermination of a tax rate increase. We reverse.

This Court's review of a decision by the MESC Board of Review is limited. Such a decision may be reversed only where this Court finds that it is contrary to law or not supported by competent, material, and substantial evidence. Substantial evidence is that which a reasonable mind would accept as adequate to support a decision. Substantial evidence is more than a mere scintilla but less than a preponderance of the evidence. *Trumble's Rent-L-Center, Inc v Employment Security Comm*, 197 Mich App 229, 233; 495 NW2d 180 (1992).

On appeal, plaintiff argues that the decision of the MESC Board of Review is contrary to law. We agree. In reversing the decision of the referee, the Board of Review held that defendant had shown good cause for its failure to comply with the thirty-day filing rule of MCL 421.18(d)(2); MSA 17.519(d)(2).¹ However, it is not necessary for us to determine whether the statute contains a "good cause" exception. The referee properly ruled that he did not have jurisdiction over this case because defendant did not file a timely appeal. Under MCL 421.32a(2); MSA 17.534(1)(2), a decision of the MESC must be appealed within one year of the mailing date of the MESC's original determination. Statutory time restrictions on seeking review of

* Circuit judge, sitting on the Court of Appeals by assignment.

unemployment tax assessments have been viewed as jurisdictional. See *Gunderson v Rose Hill Realty*, 136 Mich App 559, 564-565; 357 NW2d 718 (1984); *Herman v Chrysler Corp*, 106 Mich App 709, 717; 308 NW2d 616 (1981). Defendant filed its request for redetermination more than eighteen months after the original determination. Accordingly, defendant's request was not timely, and the Board erred in reversing the decision of the referee.

Reversed.

/s/ Barbara B. MacKenzie
/s/ Mark J. Cavanagh
/s/ Thomas L. Ludington

¹ This statutory provision was amended subsequent to the events at issue in this case.