

1/26/16
(D. DeGroot)

STATE OF MICHIGAN
MICHIGAN COMPENSATION APPELLATE COMMISSION

In the Matter of

DERRICK HICKS,

Claimant,

Appeal Docket No.: 15-064475-248535W

Social Security No.: XXX-XX-1897

Received

RANDSTAD EMPLOYMENT
SOLUTIONS LP,

JUL 11 2016

Employer.

MICHIGAN ADMINISTRATIVE
HEARING SYSTEM

DECISION OF MICHIGAN COMPENSATION APPELLATE COMMISSION

This case is before the Michigan Compensation Appellate Commission as a result of the claimant's timely appeal from a February 11, 2016 Administrative Law Judge's (ALJ) decision. The decision affirmed a December 15, 2015 Unemployment Insurance Agency (Agency) Redetermination and found the claimant was without good cause for his failure to timely protest an August 12, 2015 Agency Determination. After reviewing the record, we reverse the ALJ's decision.

On August 12, 2015, the Agency issued a Determination that found the claimant subject to the restitution and fraud provisions of the Michigan Employment Security (MES) Act¹, being Sections 62(b) and 54(b), respectively. The claimant had until Friday, September 11, 2015, to file a protest of the Determination. However, the Agency did not receive the claimant's protest until December 9, 2015. Absent a showing of good cause, the Agency may not reconsider a Determination that was not timely protested. On December 15, 2015, the Agency issued a Redetermination finding that the claimant did not have good cause for the late protest.

The claimant timely appealed the Redetermination. As a result, on February 10, 2016, the ALJ held a telephone hearing. During the hearing, the Agency informed the ALJ that it was no longer pursuing fraud charges against the claimant as there was no indication that he intentionally misled the Agency or concealed information. Despite the Agency's statement, the ALJ issued an order affirming the Redetermination. While it is true that the claimant did not have good cause for the late protest, the fact that the agency wished to dismiss the fraud charges overrides this deficiency. The ALJ should have either reversed all of the adjudications or held them void.

Therefore,

IT IS ORDERED that the ALJ's February 11, 2016 decision is REVERSED.

RECEIVED

¹ MCL 421.1 *et seq.*

JUL 18 2016


Michigan Administrative
Hearing System

IT IS FURTHER ORDERED that the Agency's August 12, 2015 Determination and December 15, 2015 Redetermination are REVERSED.

IT IS FURTHER ORDERED that the claimant is not subject to penalties under Sections 54(b) and 62(b) of the MES Act.

This matter is referred to the Agency for action consistent with this decision.


Patricia L. Halm, Commissioner


Garry Geolsby, Commissioner


Phillip A. Hendges, Commissioner

MAILED AT LANSING, MICHIGAN

JUN 14 2016

This decision shall be final unless EITHER (1) the Michigan Compensation Appellate Commission RECEIVES a written request for rehearing on or before the deadline, OR (2) the appropriate circuit court RECEIVES an appeal on or before the deadline. The deadline is:

JUL 14 2016

TO PROTECT YOUR RIGHTS, YOU MUST BE ON TIME.