

JUN 14 2021

Sherri R. Carter, Executive Officer/Clerk of Court
By [Signature] Deputy
Glorietta Robinson

GEARY J. JOHNSON
1522 HI POINT ST UNIT 9
LOS ANGELES CA 90035
Mobile 323-807-3099
Petitioner, In Pro Per

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

GEARY J. JOHNSON,
Petitioner,
vs.
Unemployment Insurance Appeals
Board,
Respondent,
Employment Development Department,
Real Party in Interest

Case No.: **21STCP01911**
PETITION FOR WRIT OF MANDATE
(CCP § 1094.5)

Date:
Time:
Department:

Date Petition Filed:

Petitioner alleges:

1. Respondent Unemployment Insurance Appeals Board (hereinafter, the APPEALS BOARD) and its employees constitute the Appeals Division of the Employment Development Department, state of California.
2. Real Party in Interest, EMPLOYMENT DEVELOPMENT DEPARTMENT (hereinafter "EDD") is, and at all times herein mentioned was, STATE AGENCY, State of California.
3. The nationwide COVID-19 emergency was declared March 13, 2020. As a result, millions of Americans like myself were provided with financial relief to be distributed, in

1 this instance, thru the state of California Employment Development Department
2 ("EDD").

3
4 4. The monies at issue here are at all times in the control of the EDD.

5
6 5. On May 27, 2020, the government declared I was affected by the COVID and my
7 unemployment benefits were extended thru the PEUC award. A copy of the
8 determination is attached hereto as Exhibit A and made a part hereof.

9
10 6. The matter of whether I had been affected by the national emergency had been
11 decided by the federal government and the state EDD by the May 27, 2020 award.
12 Exhibit A.

13
14 7. By July 2020, the PEUC monies I was receiving had been exhausted.

15
16 8. By July 2020, I was still unemployed.

17
18 9. Thereafter, EDD, on or around July 25, claimed it was filing an unemployment claim
19 on my behalf for the extended PUA monies.

20
21 10. On or around August 10, 2020, by dated letter from EDD, granted by an examiner
22 of the California Employment Development Department, I received a letter of PUA
23 award. The award stated "Do I need to do anything else to receive benefits?" The award
24 answered the question: "To receive PUA benefits, you must provide the EDD with
25 eligibility information every two weeks." A copy of the determination is attached hereto
26 as Exhibit B and made a part hereof.

27
28 11. A few days later, I received an undated letter from EDD, denied by an examiner of
the California Employment Development Department, stating "You do not qualify for

1 PUA benefits.” A copy of the determination is attached hereto as Exhibit C and made a
2 part hereof.

3
4 12. The undated denial of PUA benefits stated that I had applied for benefits stating that
5 I was affected by COVID-19 on 12/31/19 and that was one of the reasons I was denied
6 unemployment benefits.

7
8 13. Contrary to what the EDD undated notice of denial said, I never filed any application
9 for benefits stating I had applied for benefits stating that I was affected by COVID-19 on
10 12/13/19.

11
12 14. The EDD, nor the administrative judge, or anyone else, has ever supplied me with a
13 copy of any application where I said that I was effected by COVID-19 on 12/31/19. I was
14 denied due process to question and appeal that information.

15
16 15. The EDD and ALJ have maintained that the PUA award was denied and that the
17 award of PUA was subject to denial, but I was never supplied any state unemployment
18 insurance code that authorizes such conduct by the EDD and the ALJ; I was denied due
19 process to question and appeal from that section/procedure of the EDD.

20
21 16. Under 18 USC section 1001, EDD employees are liable for making false
22 statements.

23
24 17. In denying the PUA award monies I believe the EDD/state of California employees
25 have made false statements in violation of 18 USC section 1001.

26
27 18. Pursuant to the provisions of Section 1328 of the Unemployment Insurance Code,
28 PETITIONER duly filed an appeal with an administrative law judge who, by a written

1 decision dated Feb 18, 2021, affirmed the examiner's determination. A copy of the
2 decision is attached hereto as Exhibit D and made a part hereof.

3
4 19. In affirming the examiner's determination and ruling, the administrative law judge
5 abused his/her discretion and acted in excess of jurisdiction by (1) supporting the falsity
6 that I had filed an application for benefits saying I was affected by COVID-19 on
7 12/31/2019, (2) making a conclusion that was not supported by Pub. L. No. 116-136
8 section 2102(a(2), and (3) making a conclusion that was not supported by 20 Code of
9 Federal Regulations section 625.5 (c). The conclusions of the ALJ are contrary to the
10 weight of the evidence in that the EDD has not proven that petitioner was not entitled to
11 the award of PUA unemployment and COVID-19 related monies.

12
13 20. As authorized by Section 1336 of the Unemployment Insurance Code, Petitioner
14 thereafter duly filed an appeal with the appeals board, which on 4/16/21 AFFIRMED the
15 administrative law judge's decision and notified petitioner accordingly. A copy of the
16 decision is attached hereto as Exhibit E and made a part hereof.

17
18 21. In affirming the ALJ'S determination and ruling, the APPEALS BOARD abused his/
19 her discretion and acted in excess of jurisdiction by (1) supporting the falsity that I had
20 filed an application for benefits saying I was affected by COVID-19 on 12/31/2019, (2)
21 making a conclusion that was not supported by Pub. L. No. 116-136 section 2102(a(2),
22 and (3) making a conclusion that was not supported by 20 Code of Federal Regulations
23 section 625.5 (c). The conclusions of the ALJ are contrary to the weight of the
24 evidence in that the EDD has not proven that petitioner was not entitled to the award of
25 PUA unemployment and COVID-19 related monies. In addition, the APPEAL BOARD
26 did not recognize that I was never timely provided with any unemployment insurance
27 code that would have authorized the EDD to withdraw, reverse, or deny the PUA award
28 mailed 8/10/2020. See the PUA award letter at Exhibit B.

1 22. The record will show, that Petitioner did continue to certify for benefits after the
2 8/10/20 date of the PUA award, but was not awarded the PUA monies for those months
3 of certification.
4

5 23. Petitioner has exhausted his/her administrative remedies in that, under the
6 provisions of Section 410 of the Unemployment Insurance Code, the decision of the
7 appeals board is final, except for such action as may be taken by a judicial tribunal as
8 permitted or required by law.
9

10 24. Petitioner has no plain, speedy, and adequate remedy in the ordinary course of
11 law to compel the appeals board to reverse its decision and to grant petitioner's claim
12 for unemployment compensation benefits, and no remedy at all unless this petition is
13 granted.
14

15 25. A claim for damages was filed against the EDD. The maximum amount of the
16 denied PUA award was \$6513.00. (Exhibit B). For a true and correct copy of the claim
17 for damages, See Exhibit F.
18

19 WHEREFORE, petitioner prays as follows:
20

21 1. That this court issue an alternative writ of mandate ordering respondent
22 Unemployment Insurance Appeals Board
23

24 (a) To set aside its decision affirming the decision of the ALJ, that Petitioner was
25 not eligible for the PUA award of monies, and to grant such PUA unemployment
26 benefits to Petitioner per the award, or
27

28 (b) In the alternative, to show cause before this court at a time and place to be
fixed by the court why it has not done so and directing it to file with this court the

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record of all proceedings in this matter before the respondent EDD and the administrative law judge/appeals board;

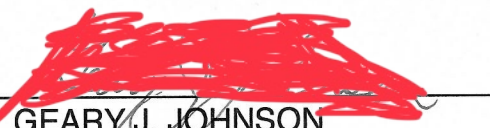
2. That, after hearing on the order to show cause, this court issue a peremptory writ of mandate to the same effect as the alternative writ except for the order to show cause;

3. For costs of suit herein incurred; and

4. For such other and further relief as the court may deem proper.

Date: June 8, 2021

By: _____


GEARY J. JOHNSON
Petitioner, In Pro Per

VERIFICATION

I, GEARY J. JOHNSON, am the petitioner in the above-entitled proceeding. I have read the foregoing petition and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **JUNE 8, 2021**

By: _____


GEARY J. JOHNSON
Petitioner, In Pro Per

EXHIBIT LIST

SHORT TITLE: <i>Johnson</i>	CASE NUMBER:
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PLAINTIFF

DEFENDANT

[illegible]

EXHIBIT LIST

EXH. A
2 OF 42

UI CENTER
PO BOX 5007
BUENA PARK CA 90622



COPY

EDD TELEPHONE NUMBERS

ENGLISH 1-800-300-5616
SPANISH 1-800-326-8937
CANTONESE 1-800-547-3506
MANDARIN 1-866-303-0706
VIETNAMESE 1-800-547-2058
TTY (NON-voice) 1-800-815-9387
EDD INTERNET SITE: edd.ca.gov

GEARY J JOHNSON
1522 HI POINT ST APT 9
LOS ANGELES CA 90035-3941

Mail Date: 05/27/2020

SSN: XXX-XX-1979

**NOTICE OF DETERMINATION FOR PANDEMIC EMERGENCY
UNEMPLOYMENT COMPENSATION**

You qualify for the Pandemic Emergency Unemployment Compensation (PEUC) extension of your regular UI benefits. This federal extension of up to 13 additional weeks of benefits has been automatically filed for you. In order to receive benefits, you must certify your eligibility for each week of benefits. If you have a prior disqualification, benefits will be paid once the disqualification is removed. The fastest way to certify for PEUC extension benefits and find more information about your claim status is to visit UI OnlineSM.

According to the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 (Public Law No. 116-136), the last date a PEUC extension can begin is December 20, 2020. Once filed, benefits are potentially payable until a valid new regular claim can be filed, or until benefits are exhausted, or until December 26, 2020, whichever of these occurs first. (Note: There are special claims that have a week-ending date other than Saturday. For these claims, benefits may be payable for weeks ending on or before *December 31, 2020*.)

A. Effective date of Claim: (Public Law [Pub.L.] No. 116-136, § 2107 [g])	04/19/2020
---	------------

B. Weekly benefit amount (WBA): (Pub. L. No. 116-136, § 2107 [a][4][A])	\$ 241
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C. Maximum extended benefit amount: (Pub.L. No. 116-136, § 2107 [a][4][C])	\$ 3,133
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NOTICE

Under 18 U.S.C. §1001, knowingly and willfully concealing a material fact by any trick, scheme or device or knowingly making a false statement in connection with this claim is a Federal Offense, punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

APPEAL RIGHTS

This decision is final unless appealed to an Administrative Law Judge of the California Unemployment Insurance Appeals Board within thirty days from the date this notice was mailed to you. Appeals should be sent to the field office listed on this notice. Appeal forms are available on our Web site at edd.ca.gov/pdf_pub_ctr/de1000m.pdf. In your appeal you must state the reasons why you do not agree with this decision.

EXH. A
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ORANGE COUNTY CALL CENTER
PO BOX 5007
BUENA PARK, CA 90622



EDD TELEPHONE NUMBERS:

ENGLISH: 1-800-300-5616
SPANISH: 1-800-326-8937
CANTONESE: 1-800-547-3506
MANDARIN: 1-866-303-0706
VIETNAMESE: 1-800-547-2058
TTY: (NON VOICE) 1-800-815-9387
EDD INTERNET SITE: www.edd.ca.gov

GEARY JOHNSON
1522 HI POINT ST APT 9
LOS ANGELES CA 90035-3941

Mail Date: 05/29/2020

SSN: ~~XXXXXXXXXX~~

NOTICE OF DETERMINATION FOR EMERGENCY UNEMPLOYMENT COMPENSATION (EUC)

You qualify for the first federal EUC extension on your regular claim effective 01/12/2020. It has been automatically filed for you. No action is required on your part. You will be mailed claim forms. In order to receive Unemployment Insurance (UI) benefits on your first federal extension you must continue to meet all UI eligibility requirements each week. Benefits are payable only if you qualify each week and you are able and available to accept work. If you have a prior disqualification, benefits will be paid once the disqualification is removed.

IMPORTANT: According to federal law, the last date a first, second, or third federal EUC extension can begin is December 22, 2013, and the last date a fourth federal EUC extension can begin is August 11, 2013. Once filed, benefits are potentially payable until a valid new regular claim can be filed, or December 28, 2013, whichever of these occurs first. (Note: There are special claims that have a week-ending date other than Saturday. In those cases, benefits may be payable for the week-ending January 1, 2014.)

SEQUESTRATION CUT OF FEDERAL EXTENSION BENEFITS

The federal Budget Control Act of 2011 (Public Law No. 112-25) requires budget cuts to many federal programs, including the EUC program. These cuts are generally known as "sequestration." **This means that federal EUC extensions filed with effective dates of April 28, 2013, through September 22, 2013, must be cut by 17.69 percent.** If the effective date of your claim (Item A below) falls within the period of April 28, 2013, **through September 22, 2013**, the weekly benefit amount (Item B below) and maximum extended benefit amount (Item C below) have been calculated to include the 17.69 percent cut in federal extension benefits. If the effective date of your claim (Item A below) is September 29, 2013, or after, your benefit amounts will **not** be reduced by the sequestration cuts and have been calculated at the full award. For answers to frequently asked questions (FAQs) about sequestration cuts, visit the EDD's website at www.edd.ca.gov.

- | | |
|--|-------------------|
| A. Effective date of claim: (Public Law [Pub.L.] No. 110-252, § 4001[b]) | 04/19/2020 |
| B. Weekly benefit amount (WBA): (Pub.L. No. 110-252, § 4001[d][1], 4002[b][3])
Unemployment Insurance Program Letter [UIPL] 13-13 and U.S. Department of Labor [DOL] Letter Dated 05/02/13) | \$241 |
| C. Maximum extended benefit amount: (Pub.L. No. 110-252, § 4001[d][3], 4002[b]
UIPL 13-13 and DOL Letter Dated 05/02/13) | \$3133 |

ADDITIONAL ELIGIBILITY REQUIREMENTS

In order to receive federal extension benefits, you must continue to meet all UI eligibility criteria and you must meet the following additional work search and reemployment eligibility assessment requirements. Failure to follow these new work search requirements may affect your eligibility to collect your federal extension benefits.

Work Search Requirements (Pub.L. No. 110-252 § 4001(h) as amended by Pub.L. No. 112-96)

If you were previously instructed by the EDD that you must look for full-time or part-time work each week, in order to be eligible for federal extension benefits, you must follow **ALL** of the following four work search criteria:

1. Register for work by completing or updating a resume on the EDD's Workforce Services assistance website CalJOBSSM at www.caljobs.ca.gov before your scheduled Reemployment Eligibility Assessment appointment.
2. Continue to look for work each week as instructed by the EDD.
3. Contact at least **three** (3) employers each week.

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4. Maintain a detailed record of the following information for at least **three (3)** work search contacts each week including evidence of any contacts you made with employers, such as letters, e-mail exchanges, and/or other electronic evidence, and provide the information to the EDD upon request.
 - Date Applied
 - Company Name
 - Company Address (Internet address is acceptable)
 - Person Contacted including method used to contact the employer (e.g., letter, e-mail, phone number)
 - Type of Work Applied
 - Results of the Contact

Documenting Work Search Requirements

If you certify for benefits **by mail** using the paper continued claim form:

1. Document at least **three (3)** work search contacts for each week in Section B on the back of your Continued Claim form by providing all the information listed above.
2. Be prepared to provide evidence to the EDD, upon request, of contacts you made with employers, such as letters, e-mail exchanges, and/or other electronic evidence, if available. You should **not** attach these copies to your Continued Claim form.

If you certify for benefits **online** using EDD Web-CertSM or by phone using EDD Tele-CertSM:

1. Maintain and keep a record of at least **three (3)** work search contacts each week. The record must include all the information listed above.
2. Be prepared to provide evidence to the EDD, upon request, of your record of work search contacts, including evidence of contacts you made with employers such as letters, e-mail exchanges, and/or other electronic evidence, if available.

Mandatory Audit of Work Search Requirements

California is required by federal law to conduct an audit of work search requirements for a specified number of claimants collecting first, second, third, or fourth federal extension benefits. If you are selected, and the EDD needs additional information from you to complete the audit, you will be contacted by mail. If you are disqualified on your federal extension because you did not meet these work search requirements, you will not be eligible to receive federal extension benefits for one or more weeks of unemployment.

Reemployment Eligibility Assessment (REA) Requirements (Pub.L. No. 110-252 § 4001(i) as amended by Pub.L. No. 112-96)

You may be required to attend a REA appointment. If the EDD determines you are required to attend, the EDD will mail you a notice containing information for your scheduled REA appointment.

If you are scheduled for a REA appointment, the **REA appointment is mandatory**. Failure to participate may result in delay and potential denial of your EUC benefits. If you are disqualified on your federal extension because you did not attend your REA appointment, you will not be eligible to receive your federal extension benefits. In order to remove this disqualification, you must contact your local One-Stop Career Center, complete a REA appointment, contact the EDD to re-open your federal extension, and meet all other unemployment eligibility requirements.

FEDERAL LAW AUTHORIZING THE EUC PROGRAM

Supplemental Appropriations Act, 2008, Public Law (Pub.L.) No. 110-252 (June 30, 2008) as amended by Pub.L. No. 110-449 (November 21, 2008), Pub.L. No. 111-5 (February 17, 2009), Pub.L. No. 111-92 (November 6, 2009), Pub.L. No. 111-118 (December 19, 2009), Pub.L. No. 111-144 (March 2, 2010), Pub.L. No. 111-157 (April 15, 2010), Pub.L. No. 111-205 (July 22, 2010), Pub.L. No. 111-312 (December 17, 2010), Pub.L. No. 112-78 (December 23, 2011), Pub.L. No. 112-96 (February 22, 2012), and Pub.L. No. 112-240 (January 2, 2013).

NOTICE

Under 18 U.S.C. §1001, knowingly and willfully concealing a material fact by any trick, scheme, or device or knowingly making a false statement in connection with this claim is a Federal Offense, punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

APPEAL RIGHTS

This decision is final unless appealed to an Administrative Law Judge of the California Unemployment Insurance Appeals Board within twenty days from the date this notice was mailed to you. Appeals should be sent to the field office listed on this notice. Appeal forms are available on the EDD website at <http://www.edd.ca.gov/de1000m.pdf>. In your appeal you must state the reasons why you do not agree with this decision. While an appeal is pending you must continue to submit a weekly claim for each week that you contend you are eligible. If the final decision by the California Unemployment Insurance Appeals Board finds you eligible, you can be paid only for those weeks you filed a weekly claim and met all other eligibility requirements.

EXH A-2
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EXH. B
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UI CENTER BUENA PARK
PO BOX 5007
BUENA PARK CA 90622

COPY



GEARY J. JOHNSON
1522 HI POINT ST APT 9
LOS ANGELES CA 90035-3941

EDD TELEPHONE NUMBERS

ENGLISH	1-800-300-5616
SPANISH	1-800-326-8937
CANTONESE	1-800-547-3506
MANDARIN	1-866-303-0706
VIETNAMESE	1-800-547-2058
TTY (NON-voice)	1-800-815-9387
EDD INTERNET SITE:	edd.ca.gov

NOTICE OF PANDEMIC UNEMPLOYMENT ASSISTANCE AWARD

SSN: XXX-XX-1979

MAIL DATE: 08/10/2020

CLAIM EFFECTIVE DATE: 07/19/2020

MAXIMUM BENEFIT AMOUNT: \$6513.00

WEEKLY BENEFIT AMOUNT: \$167.00

Why am I receiving this notice?

The Employment Development Department (EDD) has filed your Pandemic Unemployment Assistance (PUA) claim under the federal CARES Act of 2020 (Public Law 116-136) because you self-certified that you became unemployed, partially unemployed, unable to work or unavailable for work due to a reason related to the Coronavirus (COVID-19). In such circumstances, PUA benefits are available for those who are not eligible for regular Unemployment Insurance benefits, extended unemployment benefits, State Disability Insurance benefits, or Paid Family Leave benefits.

Do I need to do anything else to receive my PUA benefits?

To receive PUA benefits, you must provide the EDD with eligibility information every two weeks. This is known as certifying for benefits. You will submit your certifications using one of the methods below. More information about certifying for benefits, as well as information about PUA and other resources to assist you, can be found on EDD's website at edd.ca.gov.

- Online using UI OnlineSM: edd.ca.gov/UI_Online
- By mail using the paper *Continued Claim form* (DE 4581DUA)

How are my weekly benefit amount and maximum benefit amount calculated?

In order to provide benefits as quickly as possible, your claim has been filed with the minimum amount of \$167 allowed under federal law. After these initial payments, depending on your prior earnings, your weekly amount of \$167 per week may be increased based on the annual income you provided in your initial PUA application. The EDD is working to establish efficient procedures to determine if an increase to the weekly PUA amount will be appropriate. In addition to applying to future benefits, any increase from the \$167 amount also applies retroactively. This means that you will also receive payment to make up the difference you should have been paid if your benefits had initially been based on the increased amount. You will be notified by mail of any increase that you are entitled to receive.

Generally, PUA claims provide up to 39 weeks of benefits and are reduced by any weeks of unemployment benefits you received on a regular unemployment claim or certain extended benefit claims. You will be paid PUA benefits for any weeks in which you meet the PUA eligibility criteria up until you collect all benefits payable on your claim or through the week of December 26, 2020, whichever occurs first.

Will I receive the extra \$600 CARES Act Pandemic Additional Compensation payments?

As part of the separate CARES Act Pandemic Additional Compensation program, you will receive an additional \$600 per week for any PUA payments you receive for weeks of unemployment between March 29, 2020, and July 25, 2020.

Do I need to look for work?

Given the unique economic situation and lack of available work created by the COVID-19 health crisis, you will not be required to look for work while receiving PUA benefits.

EXH. B

EXH. C
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UI CENTER BUENA PARK
PO BOX 5007
BUENA PARK CA 90622

COPY



GEARY J. JOHNSON
1522 HI POINT ST APT 9
LOS ANGELES CA 90035-3941

EDD TELEPHONE NUMBERS

ENGLISH	1-800-300-5616
SPANISH	1-800-326-8937
CANTONESE	1-800-547-3506
MANDARIN	1-866-303-0706
VIETNAMESE	1-800-547-2058
TTY (NON-voice)	1-800-815-9387
EDD INTERNET SITE: edd.ca.gov	

Social Security No.: XXX-XX-1979

NOTICE OF DETERMINATION FOR PANDEMIC UNEMPLOYMENT ASSISTANCE

You requested to file a claim for federal Pandemic Unemployment Assistance (PUA) under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 (Public Law 116-136). This program is made available as a result of the 2019 Novel Coronavirus (COVID-19) Public Health Emergency declared by the Secretary of Health and Human Services on January 27, 2020.

You DO NOT qualify for federal PUA benefits. The federal law authorizing the PUA program prohibits the payments of benefits because:

You indicated in your application that your business, employment, or self-employment was interrupted as a direct result of COVID-19 on 12/31/2019. This date is prior to when the COVID-19 public health emergency was declared by the Secretary of Health and Human Services on January 27, 2020. Therefore, you were not unemployed as a direct result of the COVID-19 pandemic and do not meet the legal requirements for payment of PUA benefits. (Pub. L. No. 116-136 § 2102(a)(2) and 20 Code of Federal Regulations § 625.5 [c]).

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EXH. D
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CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD



INGLEWOOD OFFICE OF APPEALS
9800 South La Cienega Blvd - Ste 901
INGLEWOOD CA 90301

(310) 337-4302

COPY

GEARY J JOHNSON
Claimant-Appellant

Case No. 6688874 (PUA) - Reopened
(Formerly Case No. 6619568)

Issue(s): 2102(a)(2), 5050, 5005

Date of Application to Reinstate: 10/20/2020

EDD: 1800

Date and Place of Hearing(s):
(1) 02/11/2021

Parties Appearing:
Claimant

DECISION

The decision in the above-captioned case appears on the following page(s).

The decision is final unless appealed within 30 calendar days from the date of mailing shown below. See the attached "Notice to Parties" for further information on how to file an appeal. If you are entitled to benefits and have a question regarding the payment of benefits, call EDD at 1-800-300-5616.

H. Wien, Administrative Law Judge

GEARY J JOHNSON
1522 HI POINT ST APT 9
LOS ANGELES, CA 90035-3941

Date Mailed: FEB 18 2021

EXH. D
17 of 42

Case No.: 6688874

CLT/PET: Geary J. Johnson

Parties Appearing: Claimant

Parties Appearing by Written Statement: None

Inglewood Office of Appeals

ALJ: H. Wien

ORDER GRANTING APPLICATION TO REINSTATE APPEAL

The appeal was dismissed because it was withdrawn. The appellant filed an untimely application to reinstate the appeal. A hearing was held to consider the application.

On August 31, 2020, the appellant withdrew his appeal in this case. On September 14, 2020, the Decision Dismissing the Appeal Due to Withdrawal was mailed to the appellant. It stated that the appellant may apply to reinstate the appeal within 20 calendar days from the September 14, 2020 mailing date. The application to reinstate the appeal was due on Monday, October 5, 2020. The appellant filed his application to reinstate the appeal on October 20, 2020.

The appellant withdrew his appeal because he had received two notices from the Department that appeared fundamentally contradictory: a notice from the Department stating he was awarded Pandemic Unemployment Assistance (PUA), and a notice of determination stating he was ineligible for PUA. The appellant repeatedly attempted to get an explanation from the Department as to the meaning of the Department sending these contradictory notices. He withdrew his appeal because he believed it would be more efficient to get an answer from the Department on whether he was eligible for PUA or not; if the Department were to tell him that he was eligible, then he believed there would be no need to proceed with the appeal. However, after withdrawing the appeal, he still was not able to obtain a satisfactory response from the Department, so he concluded he would need to apply to reinstate the appeal even though the 20-day deadline to apply for reinstatement had passed.

California Code of Regulations, title 22, section 5050(h) provides an appeal may be reinstated upon a showing of good cause. Section 5050(e) provides the application to reinstate the appeal shall be filed within 20 days after service of the decision dismissing the appeal. Section 5005 provides the time for filing the application may be extended upon a showing of good cause.

Based on the facts stated above, the appellant has shown good cause for the untimely filing of the application to reinstate the appeal, and the appellant has shown good cause for reinstatement. The application to reinstate the appeal is granted. The decision dismissing the appeal is vacated.

EXH D-1
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DECISION ON THE MERITS

ISSUE STATEMENT

The claimant appealed from a determination that held the claimant was not eligible for Pandemic Unemployment Assistance under the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, section 2102(a)(2) (March 27, 2020) and Code of Federal Regulations, title 22, section 625.5(c). The issue in this case is whether the claimant became unemployed, partially unemployed, or unable to or unavailable for work prior to January 27, 2020, and therefore not as a direct result of the Covid-19 pandemic health emergency.

FINDINGS OF FACT

The department determined that the claimant was not eligible for Pandemic Unemployment Assistance under the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136 (March 27, 2020). The department then issued the adverse determination above.

The claimant last worked for wages or other compensation on December 31, 2019. Since that date, the claimant has searched for work. However, he has not received any job offer.

REASONS FOR DECISION

The term Covid-19 means the 2019 Novel Coronavirus or 2019-nCov. (Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, section 2102(a)(1) (March 27, 2020).)

The term Covid-19 public health emergency means the public health emergency declared by the Secretary of Health and Human Services on January 27, 2020, with respect to the 2019 Novel Coronavirus. (Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, section 2102(a)(2) (March 27, 2020).)

A claimant is not eligible for Pandemic Unemployment Assistance if the claimant became unemployed, partially unemployed, or unable to or unavailable for work prior to January 27, 2020, and therefore not as a direct result of the Covid-19 pandemic health emergency. (Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, section 2102(a)(2) (March 27, 2020) and Code of Federal Regulations, title 22, section 625.5(c).)

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Unemployment is the direct result the Covid-19 public health emergency where the unemployment is an immediate result of the Covid-19 public health emergency, and not the result of a longer chain of events precipitated or exacerbated by the Covid-19 public health emergency. (Code of Federal Regulations, title 20, section 625.5(c); Unemployment Insurance Program Letter 16-20, April 5, 2020.)

In this case, the claimant last worked for wages or other compensation on December 31, 2019. Since that date, the claimant has searched for work but he has not received any job offer. The claimant's unemployment began prior to January 27, 2020 and was not the direct result of the Covid-19 pandemic health emergency. Although the law's specification of the date January 27, 2020 can yield a harsh result, the administrative law judge is required to apply the law. Accordingly, the claimant is ineligible for Pandemic Unemployment Assistance under the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, section 2102(a)(2) (March 27, 2020) and Code of Federal Regulations, title 22, section 625.5(c).

DECISION

The determination is affirmed. The claimant is ineligible for Pandemic Unemployment Assistance under the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, section 2102(a)(2) (March 27, 2020) and Code of Federal Regulations, title 22, section 625.5(c). Benefits are denied.

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NOTICE TO PARTIES

Board Appeal

If the enclosed decision is unfavorable, you may appeal it to the Appeals Board (Board). The Board generally decides the case on the record of the hearing before the Administrative Law Judge (ALJ) without a new hearing, so no subpoenas will be issued.

You must mail, fax or deliver your written board appeal within 30 days (including weekends and holidays) from the mailing date stamped on the front of the ALJ's decision. Your board appeal must be in writing, signed, and include your name and address, the name of any claimant who is a party to the case, the case number of the ALJ's decision and your account number if you are an employer. If a representative files your board appeal, it must include the representative's name and address. You may include other information such as your telephone, cell and fax numbers, your e-mail address and a statement of why you disagree with the ALJ's decision (written argument).

Submitting a timely board appeal is the only requirement to obtain a review and decision in your case. When you file your board appeal, you may request the Board to send you a copy of the record of the hearing held by the ALJ if it is needed for your written argument. If you are the claimant or claimant representative, there is no payment required for a copy of the record. If you are an employer or employer representative, you must specify what item(s) you want and send a check or money order payable to **EDD: \$5 for a CD, \$5 for exhibits, and \$5 for a transcript** if available. If you ask for a copy of the record with your board appeal, you will be given a new due date to submit a written argument after the board appeal is filed.

With your board appeal, you may also request the Board to accept new or additional evidence. The Board **rarely** accepts new or additional evidence. If you make a request, you must: (a) attach the evidence with your board appeal; (b) explain why the evidence was not given to the ALJ at the hearing; and (c) explain why the evidence is important to the case.

New Hearing Request

If you did not appear in the hearing and the ALJ's decision is unfavorable, or you withdrew your appeal, you may request a new hearing and decision in your case within 20 days from the mailing date stamped on the front of the ALJ's decision. You **must** make your request and give your reasons in writing. If warranted, a hearing will be scheduled before an ALJ who will decide if there is good cause to grant your request.

Deadline and Address

You must submit your board appeal, new hearing request, written argument, and any other requests within the time limits noted above. Mail, fax or deliver your board appeal or requests to:

CUIAB – Inglewood Office of Appeals
9800 South La Cienega Boulevard, Suite 901, Inglewood, CA 90301
Fax: (310) 337-4392

For more information call the Appeals Board: (916) 263-6803

If you miss the deadline, you must explain the reasons for your delay. AN UNTIMELY BOARD APPEAL OR UNTIMELY REQUEST WILL BE DISMISSED OR DENIED UNLESS GOOD CAUSE IS FOUND TO EXTEND THE TIME FOR FILING.

Claim Forms

If you are the claimant and still unemployed or disabled, you **must** file claim forms while your appeal is pending as required by the EDD. If you do not have claim forms, contact EDD at: <http://www.edd.ca.gov> and follow the links to Contact EDD. Disability Insurance Claimants: Call (800) 480-3287; Paid Family Leave Claimants: Call (877) 238-4373.

Governing Procedure

This notice gives general information. The governing procedure is in Title 22, California Code of Regulations, Sections 5000-5200, available on the internet at <http://ccr.oal.ca.gov> or from the Office of Appeals without charge.

- Español al reverso -

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