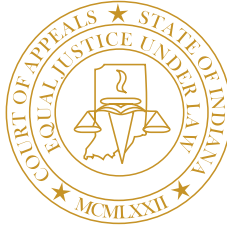


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

N.M.,
Appellant-Petitioner

v.

Review Board of the Indiana Department of Workforce
Development,
Appellee-Respondent



May 27, 2025

Court of Appeals Case No.
24A-EX-2827

Appeal from the Review Board of the Department of Workforce
Development

Gabriel B. Paul, Chairman

Larry A. Dailey, Member

Heather D. Cummings, Member

Trial Court Cause No.
No. 24-R-2457

Memorandum Decision by Chief Judge Altice
Judges Brown and Tavitas concur.

Altice, Chief Judge.

Case Summary

- [1] N.M., pro se, appeals the decision of the Review Board of the Indiana Department of Workforce Development (Review Board) affirming the Administrative Law Judge’s (ALJ) dismissal of her administrative appeal after she failed to attend a scheduled telephonic hearing on her request for unemployment benefits. She maintains that upon having shown good cause for her absence, procedural fairness “demands the opportunity for a second hearing” on the merits of her unemployment claim. *Appellant’s Brief* at 5.
- [2] We affirm.

Facts & Procedural History

- [3] Sometime in August 2024, N.M. sought unemployment benefits with the Indiana Department of Workforce Development (the Department). There is no information in the record regarding the Department’s initial decision, but N.M. filed an administrative appeal with the Department, and a telephonic hearing before an ALJ was scheduled for September 25, 2024. After N.M. failed to attend the scheduled hearing, the ALJ dismissed the appeal and sent notice of the dismissal to her. The notice advised N.M. that she could file an appeal with

the Review Board and that such must include, among other things, “an explanation of the reason for the appeal.” *Appendix Vol. 2* at 6.

[4] On or about October 1, 2024, More indicated that she wished to appeal the ALJ’s dismissal. N.M. wrote a letter requesting another “appeal date,” explaining that she missed the scheduled telephonic hearing due to a setting on her phone that silenced unknown callers, a circumstance she refers to on appeal as encountering “technical difficulties.”¹ *Id.* at 7; *Appellant’s Brief* at 4. She also stated in the letter that, at some point after she missed the hearing, she noticed that she had a voicemail from the ALJ and that she then tried to call the ALJ.

[5] The Review Board acknowledged receipt of N.M.’s appeal and noted that no further action was required by either party. On October 25, 2024, the Review Board issued its order affirming the ALJ’s dismissal. On November 22, 2024, N.M. filed the instant appeal, again requesting a second opportunity to have a hearing before the ALJ.

Discussion & Decision

[6] N.M. asks us to reverse the Review Board’s decision, claiming that the Board violated her right to procedural fairness by not crediting her claimed “technical difficulties” as good cause for her missing the scheduled telephonic hearing with the ALJ. *Appellant’s Brief* at 5. The gist of her argument is that under the

¹ It is unclear to whom the letter was sent but the clear intent of the letter was to explain why N.M. did not attend the scheduled telephonic hearing with the ALJ.

circumstances as she alleges them, she is entitled to a second hearing date before the ALJ.

- [7] Initially, we note that a litigant is not given special consideration by virtue of her pro se status. *Kelley v. State*, 166 N.E.3d 936, 937 (Ind. Ct. App. 2021). Rather, “[i]t is well settled that pro se litigants are held to the same legal standards as licensed attorneys. This means that pro se litigants are bound to follow the established rules of procedure and must be prepared to accept the consequences of their failure to do so.” *Basic v. Amouri*, 58 N.E.3d 980, 983-84 (Ind. Ct. App. 2016) (internal citations omitted).
- [8] N.M. does not articulate any legal basis for reversing the Review Board’s decision. For example, although citing two general statutory provisions, she does not explain how the ALJ or the Review Board violated such. She also improperly cites two memorandum decisions from this court but does not explain how they dictate reversal in this case. Simply stating that it was unfair to not grant her a second opportunity for a hearing before an ALJ, given her explanation as to why she missed her first opportunity, does not convey a cogent legal argument. Ind. Appellate Rule 46(A)(8) (requiring appellant’s arguments to be supported by cogent reasoning).² N.M. has waived her right to appellate review. *See Price v. Rev. Bd. of Ind. Dep’t of Workforce Dev.*, 2 N.E.3d 13,

² We also note that N.M. did not identify a standard of review that she thinks should apply, which is also a requirement of App. R. 46(A)(8).

16-17 (Ind. Ct. App. 2013) (concluding the claimant waived her claim for appellate review by failing to present cogent argument).

[9] Waiver notwithstanding, our case law demonstrates that N.M. would not be entitled to relief based on the claimed “technical difficulties” with her phone. *Appellant’s Brief* at 7. For example, in *Art Hill, Inc. v. Rev. Bd. of Ind. Dep’t of Workforce Dev.*, 898 N.E.2d 363, 368 (Ind. Ct. App. 2008), this court held that a party, who had actual notice of a hearing³ and missed the ALJ’s call but tried returning it through a different telephone number moments later, voluntarily waived the opportunity for a fair hearing because the party failed to participate in the hearing. And, in *Employer v. Rev. Bd. of Ind. Dep’t of Workforce Dev.*, 955 N.E.2d 210, 214 (Ind. Ct. App. 2011), we likewise concluded that the employer voluntarily waived the opportunity to be heard at an unemployment hearing when the employer did not participate in the hearing because the employer’s attorney failed to properly calendar the time of the hearing. *See also Bailey v. Rev. Bd. of Ind. Dep’t of Workforce Dev.*, (132 N.E.3d 386, 391 (Ind. Ct. App. 2019) (concluding that a claimant, who twice missed the ALJ’s telephone calls and tried to call into the hearing moments later, voluntarily failed to participate in the hearing and was not denied due process); *S.S. v. Rev. Bd. of Ind. Dep’t of Workforce Dev.*, 941 N.E.2d 550, 555 (Ind. Ct. App. 2011) (concluding that parties who confused time zones and thus failed to participate in a hearing were

³ N.M. makes no claim that she did not have actual notice of the scheduled hearing.

not denied an opportunity to be heard); *Wolf Lake Pub, Inc. v. Rev. Bd. of Ind. Dep't of Workforce Dev.*, 930 N.E.2d 1138, 1140 (Ind. Ct. App. 2010) (denying an employer's due process challenge where the employer provided a contact number, the ALJ called it twice at the time of the hearing, and the employer never answered).

[10] The Review Board did not err in affirming the ALJ's dismissal of N.M.'s administrative appeal from the denial of her unemployment benefits.

[11] Judgment affirmed.

Brown, J. and Tavitas, J., concur.

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