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2021 Edition

Unemployment Compensation Appeals in Connecticut

A Guide to Resources in the Law Library

Table of Contents

Introduction	3
Section 1: Appeal Procedure to Superior Court.....	4
Section 1a: Record.....	17
Figure 1: Motion to the Board of Review to Correct Findings of Fact	26
Figure 2: Decision of the Board on Motion to Correct Findings of Fact	27
Section 1b: Hearing.....	28

*Prepared by Connecticut Judicial Branch, Superior Court Operations,
Judge Support Services, Law Library Services Unit*

lawlibrarians@jud.ct.gov

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The online versions are for informational purposes only.

References to online legal research databases refer to in-library use of these databases. Remote access is not available.

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Introduction

A Guide to Resources in the Law Library

- “We set forth a brief road map of the unemployment compensation appeals process. The administrator can investigate claimants receiving benefits. General Statutes § 31-241(a). After such an investigation, an appeal from the administrator's decision and a request for a hearing before an adjudicator may be made. General Statutes § 31-241(a). If the adjudicator denies the claimant unemployment benefits, the claimant can then appeal the adjudicator's determination to an appeals referee for a de novo review of the claim. General Statutes § 31-242. The referee's determination may then be appealed to the employment security board of review; General Statutes § 31-249; whose subsequent determination may then be appealed to the Superior Court. General Statutes § 31-249b.” [Manukyan v. Administrator, Unemployment Compensation Act](#), 139 Conn. App. 26, 54 A.3d 602 (2012).
- “At any time before the board's decision has become final, any party, including the administrator, may appeal such decision, including any claim that the decision violates statutory or constitutional provisions, to the superior court for the judicial district of Hartford or for the judicial district wherein the appellant resides.” [Conn. Gen. Stat. § 31-249b](#) (2021).
- “Appeals from the board of review to the superior court are exempt from the Uniform Administrative Procedure Act codified at General Statutes § 4-166 et seq. General Statutes § 4-186. Appeals of this nature are governed by General Statutes § 31-222 et seq., the Unemployment Compensation Act.” [Glenn v. Unemployment Comp.](#), Superior Court, Judicial District of Waterbury, No. CV040183331S (2004 WL 1392632) (2004 Conn. Super. Lexis 1489) (June 4, 2004).
- “In appeals of this nature, the Superior Court sits as an appellate court to review only the record certified and filed by the board. . . . [Burnham v. Administrator](#), 184 Conn. 317, 321, 439 A.2d 1008 (1981).” [Lazarchek v. Unemployment Compensation Act](#), 1 Conn App 591, 594, 474 A.2d 465 (1984).
- “[R]eview of an administrative agency decision requires a court to determine whether there is substantial evidence in the administrative record to support the agency's findings of basic fact and whether the conclusions drawn from those facts are reasonable.... Neither this court nor the trial court may retry the case or substitute its own judgment for that of the administrative agency on the weight of the evidence or questions of fact.... Our ultimate duty is to determine, in view of all of the evidence, whether the agency, in issuing its order, acted unreasonably, arbitrarily, illegally or in abuse of its discretion.” [JSF Promotions, Inc. v. Administrator, Unemployment Compensation Act](#), 265 Conn. 413, 417, 828 A2d 609 (2003). (Internal citations omitted.)

Section 1: Appeal Procedure to Superior Court

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources related to the procedure to appeal a decision of Employment Security Board of Review to the superior court.

DEFINITIONS:

"Appeal: Asking a higher court to review the decision or sentence of a trial court because the lower court made an error." [Common Legal Words](#), CT Judicial Branch.

"At any time before the board's decision has become final, any party, including the administrator, may appeal such decision, including any claim that the decision violates statutory or constitutional provisions, to the superior court for the judicial district of Hartford or for the judicial district wherein the **appellant resides**." Conn. Gen. Stat. § [31-249b](#) (2021).

ADDITIONAL INFORMATION:

"Judicial review of any decision shall be allowed only after an aggrieved party has exhausted his or her remedies before the board. General Statutes §§ §§ 31-248 (c) and 31-249a (c)." [Walsh v. CT Unemployment Comp.](#), Connecticut Superior Court, Judicial District of Hartford at Hartford, No. CV 99 0586121S (2002 Conn. Super. Lexis 664) (Feb. 26, 2002).

"Appeals within the unemployment compensation system must be taken in a timely fashion or they are to be dismissed. [Gumbs v. Administrator](#), 9 Conn. App. 131, 133, 517 A.2d 257 (1986)." [Walsh v. CT Unemployment Comp.](#), Connecticut Superior Court, Judicial District of Hartford at Hartford, No. CV 99 0586121S (2002 Conn. Super. Lexis 664) (Feb. 26, 2002).

"Appeals from the decisions of the administrator of the Unemployment Compensation Act, appeals from decisions of the employment security appeals referees to the board of review, and appeals from decisions of the Employment Security Board of Review to the courts, as is provided in chapter 567 . . . are excepted from the provisions of this chapter." Conn. Gen. Stat. § [4-186\(a\)](#) (2021).

"An appeal to Superior Court from a board decision may be processed by the board as a motion for purposes of reopening, setting aside, vacating or modifying such decision solely in order to grant the relief requested." Conn. Gen. Stat. § [31-249a\(b\)](#) (2021).

Number of copies and content:

"In such judicial proceeding the original and five copies of a petition, which shall state the grounds on which a review is sought, shall be filed in the office of the board in a manner prescribed by the appeals division." Conn. Gen. Stat. § [31-249b](#) (2021).

"Each appeal petition to the Superior Court from the Board's decision on an appeal shall be filed by the use, pursuant to the instruction contained thereon, of a form prescribed by the Board for such purpose and made available by the Administrator at each Employment Security office, or by means of a document which shall:

(1) state the grounds on which judicial review of the Board's decision is sought;

(2) consist of the original petition plus five (5) copies; and should

(3) be clearly entitled at the top center of the front page 'appeal to superior court from decision of the employment **security board of review**' and otherwise prepared in accordance with Section 31-237g-10(a) **of these regulations.**" **Regulations of CT State Agencies § [31-237g-51\(a\)](#).**

Mailing:

"The chairman of the board shall, within the third business day thereafter, cause the original petition or petitions to be mailed to the clerk of the Superior Court and copy or copies thereof to the administrator and to each other party to the proceeding in which such appeal was taken . . ." Conn. Gen. Stat. § [31-249b](#) (2021).

"Following the Board's receipt of such appeal, the Chairman shall, pursuant to the existing law, cause the original appeal petition and the appeal record to be certified to the appropriate Superior Court." **Regulations of CT State Agencies § [31-237g-51\(b\)](#).**

". . . and said clerk shall docket such appeal as returned to the **next return day after the receipt of such petition or petitions.**" Conn. Gen. Stat. § [31-249b](#) (2021).

Bond:

". . . no bond shall be required for entering an appeal to the Superior Court." Conn. Gen. Stat. § [31-249b](#) (2021).

Short calendar:

"Such appeals shall be claimed for the short calendar unless the court shall order the appeal placed on the trial list." Conn. Gen. Stat. § [31-249b](#) (2021).

"In any appeal in which one of the parties is not represented by counsel and in which the party taking the appeal does not claim the case for the short calendar or trial within a reasonable time after the return day, the court may of its own motion dismiss the appeal, or the party ready to proceed may **move for nonsuit or default as appropriate.**" Conn. Gen. Stat. § [31-249b](#) (2021).

Judgment:

“Unless the court shall otherwise order after motion and hearing, the final decision of the court shall be the decision as to all parties to the original proceeding. . . . When an appeal is taken to the Superior Court, the clerk thereof shall by writing notify the board of any action of the court thereon and of the disposition of such appeal whether by judgment, remand, withdrawal or otherwise and shall, upon the decision on the appeal, furnish the board with a copy of such decision. The court may remand the case to the board for proceedings de novo, or for further proceedings on the record, or for such limited purposes as the court may prescribe. The court also may order the board to remand the case to a referee for any further proceedings deemed necessary by the court. The court may retain jurisdiction by ordering a return to the court of the proceedings conducted in accordance with the order of the court or the court may order final disposition.” Conn. Gen. Stat. § [31-249b](#) (2021).

“In any appeal, any finding of the referee or the board shall be subject to correction only to the extent provided by section 22-9 of **the Connecticut Practice Book.**” Conn. Gen. Stat. § [31-249b](#) (2021).

“**[Unemployment] appeals are heard by the court upon certified copy of the record filed by the board.** The court does not retry the facts or hear evidence. It considers no evidence other than that certified to it by the board, and then for the limited purpose of determining whether the finding should be corrected, or whether there was any evidence to support in law **the conclusions reached . . . The court’s ultimate duty is to** decide only whether, in light of the evidence, the board of review has acted unreasonably, arbitrarily, illegally, or in abuse of its discretion. (Internal quotation marks omitted.) [Phillips v. Administrator, Unemployment Compensation Act](#), 157 Conn. App. 342, 350, 115 A.3d 1162 (2015).” [Cousins v. Administrator, Unemployment Compensation Act et al.](#), Superior Court, Judicial District of New Haven at New Haven, NNH-CV17-5038021-S (65 CLR 670, 672) (2017 Conn. Super Lexis 5175) (December 28, 2017).

Postjudgment:

“A party aggrieved by a final disposition made in compliance with an order of the Superior Court, by the filing of an appropriate motion, may request the court to review the **disposition of the case.**” Conn. Gen. Stat. § [31-249b](#) (2021).

“An appeal may be taken from the decision of the Superior Court to the Appellate Court in the same manner as is provided in section 51-**197b.**” Conn. Gen. Stat. § [31-249b](#) (2021).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Stat. (2021)

Chapter 567. Unemployment Compensation

§ [31-236](#). Disqualifications. Exceptions.

§ [31-243](#). Continuous jurisdiction.

§ [31-249b](#). Appeal.

§ [31-249c](#). Administrator a party to all appeal proceedings. Right of board to intervene as a party.

§ [31-249d](#). Disqualification of referees and board members as advocates.

§ [31-249e](#). Decisions of board and referees. Methods of issuance. Notice of appellate rights.

§ [31-273](#). Overpayments; recovery and penalties. Timeliness of appeals. False or misleading declarations, statements or representations. Additional violations and penalties.

Chapter 882. Superior Court

§ [51-197b](#). Administrative appeals.

LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report's** publication. Current law may be different from what is discussed in the reports.

- *Employer's Rights in Unemployment Compensation Appeals Process*, [2002-R-0621](#), by John Moran, Research Analyst, Connecticut General Assembly, Office of Legislative Research, July 19, 2002.

"You asked the following questions about cases when a former employee appeals an unemployment compensation ruling denying him unemployment benefits:

1. What are the employer's rights in employee appeals?
2. Is the employer required to appear at appeals hearings or other proceedings?
3. Are employers required to obtain an attorney?
4. Can an employer collect legal fees from a former **employee if the employee loses the appeals?"**

- *Unemployment Compensation Appeal Process*, [1997-R-1093](#), by Judith Lohman, Principal Analyst, Connecticut General Assembly, Office of Legislative Research, September 29, 1997.

"You asked for a summary of the unemployment compensation benefit appeal process."

COURT RULES:

Connecticut Practice Book (2021)

[Chapter 22](#). Unemployment Compensation

§ 22-1. Appeal

§ 22-2. Assignment for Hearing

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- § 22-3. Finding
- § 22-4. Correction of Finding; Motion to Correct Finding
- § 22-5. – Evidence to Be Filed by Appellee
- § 22-6. – Motion to Correct by Appellee
- § 22-7. – Duty of Board on Motion to Correct
- § 22-8. – **Claiming Error on Board’s Decision on Motion to Correct**
- § 22-9. Function of the Court

REGULATIONS:

You can visit your local law library or browse the [Connecticut eRegulations System](#) on the Secretary of the State website to check if a regulation has been updated.

Regulations of Connecticut State Agencies

Title 31. Labor

- § [31-235-1 to 31-235-27](#). Eligibility for Unemployment Compensation
- § [31-236-1 to § 31-236-58](#). Eligibility for Unemployment Compensation
- § [31-237g-1 to 31-237g-107](#). Proceedings on Disputed Matters Pertaining to Unemployment Compensation Claims

ONLINE RESOURCES:

- [Appealing an Unemployment Decision to Superior Court](#), by CTLawHelp.org

FORMS:

- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Form 204.2. Appeal from Decision of the Employment Security Board of Review
 - Form 204.2.1. Amended Appeal from Employment Security Board of Review

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

Connecticut Supreme Court:

- [Finkenstein v. Administrator, Unemployment Compensation Act, et al.](#), 192 Conn. 104, 470 A.2d 1196 (1984 Conn. Lexis 507) (1984). **“Any party, including the administrator, may thereafter continue the appellate process by appealing to the Superior Court . . .**
 - Important to our disposition of this issue is that on an appeal from an initial determination made by an examiner, a referee hears the claim de novo. . . The administrator, through his examiner, does not continue to act as an adjudicator, but is deemed a party to all appellate proceedings, having the correlative right to appeal the decision rendered pursuant to such proceedings. . . Inherent in the nature of de novo proceedings is that new or previously undiscovered facts or evidence may arise. Such information, had it been known at the stage of the proceedings before the examiner, certainly might have altered that determination regarding eligibility. It, therefore, follows that the information obtained from a de

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novo hearing might fairly alter the administrator's position concerning a claimant's eligibility. As a party to the proceedings with the right to appeal, the administrator must be able to oppose the initial determination based upon the facts revealed subsequent thereto. To do otherwise would leave the administrator bound to advocate a position which, based upon the de novo hearing, he now recognizes as erroneous and not in accordance with the eligibility provisions established by the legislature." (p. 109)

"Conclusions of law reached by the referee cannot stand, however, if the court determines that they resulted from an incorrect application of the law to the facts found or could not reasonably and logically follow from such facts. Although the court may not substitute its own conclusions for those of the referee, the court's ultimate duty is to decide whether the referee acted unreasonably, arbitrarily or illegally. Thus, we have recognized that our standard of review in administrative proceedings must allow for judicial scrutiny of claims such as constitutional error, jurisdictional error, or error in the construction of an agency's authorizing statute." (Internal quotations and citations omitted.) (p. 113)

Connecticut Appellate Court:

- [Seward v. Administrator, Unemployment Compensation Act](#), 191 Conn. App. 578, 215 A3d 202 (2019). "The board concluded that this was not a sufficient excuse for failing to appear at the May 18, 2017 hearing, **stating: '[W]e find that the [plaintiff's] failure to timely read his mail constituted poor mail handling, which does not excuse his failure to participate in the referee's May 18, 2017 hearing. We conclude that the [plaintiff] has not shown good cause for failing to appear at the referee's hearing and that the referee did not err in denying his motion to [open]. By choosing not to attend the referee's hearing despite having received notice of the hearing, the [plaintiff] has waived the right to object to the referee's findings of fact and conclusions of law which were based on the testimony and evidence presented at that hearing.'** (Footnote omitted.) Accordingly, the board affirmed the decision of the referee.

On September 13, 2017, the plaintiff filed an appeal with the Superior Court. Approximately three months later, the defendant filed a motion for a judgment to dismiss the appeal. On February 14, 2018, the court, after conducting a hearing, issued a memorandum of decision overruling the **defendant's motion and remanding the matter to the board** with direction to grant the motion to open to afford the plaintiff an opportunity to defend the initial ruling that he was entitled to unemployment benefits. The court **'observed** that the [plaintiff] was just an ordinary, working class person a bit overwhelmed with the amount of mail he was

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receiving When the [plaintiff] realized his error, he immediately requested that the matter be reopened so that he could have an opportunity to present his case. To deny the [plaintiff] an opportunity to have his **day in “court”** when he already was adjudicated eligible for benefits is, in the opinion of this court, a gross abuse of discretion, especially when he immediately responded to the decision of the [board] when he discovered his mistake. There would not have been a long delay in the process if his request would have been granted and he would have had an opportunity to present his side of the **story.**’ This appeal followed. . . .

On appeal, the defendant claims that the Superior Court exceeded the scope of its review by finding and relying on facts outside of the certified record, in violation of controlling case law and our rules of practice, and then improperly used those facts to determine that the board had abused its discretion. We agree.

The board did not find that the plaintiff was “an ordinary, working class person” who had been overwhelmed by the volume of mail related to the claim for unemployment benefits. ‘In an appeal to the court from a decision of the board, the court is not to find facts. . . . In the absence of a motion to correct the finding of the board, the court is bound by the board’s **finding.**’ (Citations omitted.) . . .

We conclude that the Superior Court exceeded the scope of its review in this case by finding facts. The facts improperly found by the court formed the basis of its determination that the board had abused its discretion. Stated differently, the reasoning of the Superior Court, in reversing the decision of the board and remanding the case for further proceedings, rested on **facts found by the court.** The Superior Court, under these facts and circumstances, was bound by the facts **found by the board.** By making and relying on its own factual findings, the Superior Court exceeded its role. The determination that the board abused **its discretion, therefore, is improper.”**

- [Manukyan v. Administrator, Unemployment Compensation Act](#), 139 Conn. App. 26, 33-34, 54 A.3d 602 (2012). “We begin by setting forth our standard of review and the **principles that guide our analysis.** **To the extent that an administrative appeal, pursuant to General Statutes § 31-249b, concerns findings of fact, a court is limited to a review of the record certified and filed by the board of review. The court must not retry the facts nor hear evidence....** If, however, the issue is one of law, the court has the broader responsibility of determining whether the administrative action resulted from an incorrect application of the law to the facts found or could not reasonably or logically have followed from such facts. Although the court may not substitute its own conclusions for those of the

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administrative board, it retains the ultimate obligation to determine whether the administrative action was **unreasonable, arbitrary, illegal or an abuse of discretion.**' (Citations omitted.) [United Parcel Service, Inc. v. Administrator, Unemployment Compensation Act](#), 209 Conn. 381, 385-86, 551 A.2d 724 (1988). '[The court] is bound by the findings of subordinate facts and reasonable factual conclusions made by the appeals referee where, as here, the board of review adopted the findings and affirmed **the decision of the referee.**' [DaSilva v. Administrator, Unemployment Compensation Act](#), 175 Conn. 562, 564, 402 A.2d 755 (1978). 'If the referee's conclusions are reasonably and logically drawn, the court cannot alter them.' [Howell v. Administrator, Unemployment Compensation Act](#), supra, 174 Conn. 533."

- [Phillips v. Administrator, Unemployment Compensation Act](#), 157 Conn. App. 342, 349, 115 A3d 1162 (2015). "The board further stated that although a party to an unemployment compensation proceeding has the right to be represented by counsel, a party is not provided a second hearing if the party failed to obtain legal representation at the first hearing. See Regs., Conn. State Agencies § 31-237g-11 (a)."
- [Marquand v. Administrator, Unemployment Compensation Act](#), 124 Conn. App. 75, 3 A.3d 172 (2010), cert denied 300 Conn. 923 (2011). "As a preliminary matter, we note the unique place this type of appeal holds in our appellate jurisprudence. [A]ppeals from the board to the Superior Court are specifically exempted from governance by General Statutes § 4-166 et seq., the Uniform Administrative Procedure Act. All appeals from the board to the court are controlled by [General Statutes] § 31-249b. . . . We also are mindful of the remedial nature of our state's statutory scheme of unemployment compensation. . . . This remedial purpose, however, does not support the granting of benefits to an employee guilty of willful misconduct. . . ." (pgs. 78-79)

"Essentially, the only issue for the court to determine was whether the board acted unreasonably, arbitrarily, illegally or in abuse of its discretion when it denied the plaintiff's motion to open for lack of jurisdiction and found that there was no good cause for the late filing. General Statutes § 31-249a provides in relevant part: '(a) Any decision of the board, in the absence of a timely filed appeal from a party aggrieved thereby or a timely filed motion to reopen, vacate, set aside or modify such decision from a party aggrieved thereby, shall become final on the thirty-first calendar day after the date on which a copy of the decision is mailed to the party, provided . . . any such appeal or motion which is filed after such thirty-day period may be

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considered to be timely filed if the filing party shows good cause, as defined in regulations adopted pursuant to section 31-249h, for the late filing (b) Any decision of the board may be reopened, vacated, set aside, or modified on the timely filed motion of a party aggrieved by such decision, or on the board's own timely filed motion, on grounds of new evidence or if the ends of justice so require **upon good cause shown....' On the basis of the record, we conclude that there was ample evidence to support the board's decision that the plaintiff failed to file a timely appeal both with the referee and with the board and that no good cause exists for the late filing of the motion to open.**" (pp. 80-81)

- [Gumbs v. Administrator, Unemployment Compensation Act, 9 Conn. App. 131, 133, 517 A.2d 257 \(1986\)](#). " . . . appeals within the unemployment compensation system must be taken in a timely fashion and, if they are not, they come 'too late' for review. The plaintiff's petition for review should have been dismissed by the trial court as untimely."

Connecticut Superior/Trial Court:

- [Javier v. Administrator, Unemployment Compensation Act](#), Superior Court at New Britain, No. HHB-CV-20-5027359-S (70 Conn. L. Rptr. 473) (2020 Conn. Super. Lexis 1388) (October 30, 2020). "**The court in *Louis v. Administrator, Unemployment Compensation Act*, Superior Court, judicial district of Stamford-Norwalk, Docket No. CV-13-5014177-S (August 29, 2014, Tobin, J.T.R.), stated, more specifically, that, '[w]e have consistently ruled that a party's erroneous belief that it had twenty-one business days instead of calendar days to file does not excuse the untimely filing of an appeal . . . Therefore, we conclude that the referee was required by law to dismiss the appeal because the claimant did not show good cause for the late filing of his appeal.'** . . . Also relevant for purposes of the present case is the court's determination in *Gupton v. Administrator, Unemployment Compensation Act*, Superior Court, judicial district of Hartford, Docket No. CV-96-0562793-S (November 8, 1996, Sullivan, J.), wherein the court stated that, 'failure to read the appeals advisement does not afford the claimant good cause for filing a late appeal.' As these cases show, Ms. Javier's claims, that she believed she had twenty-one business days to file her appeal and that she failed to read part of the notice, do not constitute good cause."
- [Sessions v. Administrator, Unemployment Compensation Act](#), Judicial District of New Britain, CV19-5024846 (2019 Conn. Super. Lexis 2791) (2019 WL 5957879) (October 25,

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

2019). **"The claimant also maintained that she is awaiting the result of her grievance. In its decision to deny the motion to reopen, the Board stated that 'because the appeals division has independent authority to determine whether the claimant was discharged for disqualifying reasons, it is not required to await the outcome of proceedings, such as a grievance procedure, before issuing a decision. . . . We are bound to make a determination of eligibility for unemployment compensation benefits "at the earliest point administratively feasible."'**" Citing [Java v. California Department Resources Development](#), 402 U.S. 121."

"New evidence that will provide a basis for reopening the record must meet essentially the same test as the evidence required for granting a new trial. The evidence must be new, it must not have been discoverable through the exercise of due diligence, and it must be sufficiently material to provide some reasonable basis for producing a different outcome. *Grant v. Administrator*, Superior Court, judicial district of Hartford-New Britain at New BritainDocket No. 410853 (February 22, 1984)."

"The defendant argues, and the court agrees, that the issues of overpayment and reimbursement are governed by statute and must be decided separately from this appeal."

- [Dennis v. Administrator](#), Unemployment Compensation Act, Connecticut Superior Court, Judicial District of New Haven at New Haven, CV18-5041385-S (2018 Conn. Super. Lexis 2056) (August 27, 2018). **"A reviewing court must accept the findings made by the Board as to witness credibility and must defer to the agency's conclusions to be drawn from the evidence. [Howell v. Administrator, Unemployment Compensation Act](#), 174 Conn. 529, [391 A.2d] (1978) . . . ; [Briggs v. State Employees Retirement Commission](#), 210 Conn. 214, 217, [554 A.2d 292] (1989).'** *Cooper v. Administrator, Unemployment Compensation Act*, Superior Court judicial district of New London at Norwich, Docket No. CV 98 115055 (February 24, 2000, *Corradino, J.*)."
- [Scraders v. Administrator, Unemployment Comp. Act](#), Connecticut Superior Court, Judicial District of New Haven at New Haven, CV17-5039014 (2018 Conn. Super. Lexis 1650) (August 1, 2018). **No abuse of discretion in board's dismissal of appeal for perceived lack of diligence and denial of motion to reopen.**
- [Cousins v. Administrator](#), Unemployment Compensation Act et al., Superior Court, Judicial District of New Haven at New Haven, NNH-CV17-5038021-S (65 CLR 670, 673) (2017 Conn. Super. Lexis 5175) (December 28, 2017). **"When it comes to non-appearances due to scheduling or other 'good**

faith' mistakes, the Board appears to have drawn a line based on how quickly the defaulting party contacts the Appeals Division to seek clarification or rectification once the error is discovered. . . ("We have excused a party's failure to appear at the referee's hearing as good faith error, where the party made a mistake about the hearing date or time, or failed to report to the correct hearing location, if the party acted diligently as soon as it discovered its error"). A telephone call to the Appeals Division later the same day of the scheduled hearing will serve as a basis to reopen a dismissal and schedule a new hearing, but such efforts any time after the day of the missed hearing will not be excused, absent some justification other than mere good-faith mistake. . . Again, this 'same day' rule strikes the court as unduly and unnecessarily harsh, but the court's preference for added leniency does not make the Board's exercise of discretion unreasonable or arbitrary in this context. The Board's decision must be affirmed."

- Walsh v. CT Unemployment Comp., Connecticut Superior Court, Judicial District of Hartford at Hartford, No. CV 99 0586121S (2002 Conn. Super. Lexis 664) (Feb. 26, 2002). "[A]ppeals from the board to the Superior Court are specifically exempted from governance by General Statutes §§ 4-166 et seq., the Uniform Administrative Procedure Act. All appeals from the board to the Court are controlled by §§ 31-249b.' Calnan v. Administrator Unemployment Compensation Act, 43 Conn. App. 779, 783, 686 A.2d 134 (1996)."

WEST KEY NUMBERS:

Unemployment Compensation – Judicial Review

450 – 500

- 450. In general
- 455. Persons entitled to seek review; parties
- 460. Time for proceedings
- 469. Scope of review
- 474. – Deference to administrative determination, in general
- 476. – Discretion of agency, and abuse thereof
- 477. – **Substitution of court's judgment for that of agency**, in general
- 479. – Additional evidence, consideration of
- 493. – Particular cases and issues
- 495. Harmless error
- 496. Reversible error
- 497. Remand
- 498. Rehearing, reopening or reconsideration
- 500. Further review

ENCYCLOPEDIAS:

- *76 AmJur 2d* Unemployment Compensation (2016). Also available on Westlaw.
§ 211. Judicial Review

- § 212. Standing
- § 213. Prior findings or decision subject to review
- § 214. Issues and evidence considered
- § 215. Attorney's fees; interest**
- § 216. Standard of review, generally
- § 217. Application of "substantial evidence" standard**

- 81A *CJS* Social Security and Public Welfare (2015). Also available on Westlaw.
 - 5. Judicial Review
 - a. In General
 - § 536. Generally
 - § 537. Nature and form of remedy
 - § 538. Decisions reviewable
 - § 539. Person entitled to obtain review
 - § 540. – Necessary and proper parties
 - § 541. Record
 - b. Proceedings for Review
 - § 542. Generally
 - § 543. When jurisdiction acquired
 - § 544. Service of petition for review
 - § 545. Time for proceedings
 - § 546. – Commencement of time to appeal
 - c. Scope of Review
 - § 547. Review as limited to decision of, and facts before, administrative tribunal
 - § 548. Review as de novo
 - § 549. Review as limited to questions of law and to **review of agency's order; deference to agency**
 - § 550. Harmless error
 - § 551. Burden of proof
 - § 552. Presumptions
 - § 553. Questions reviewable
 - § 554. Questions not reviewable
 - § 555. – Questions not properly preserved for review
 - § 556. Findings of fact – Generally
 - § 557. Conclusiveness
 - § 558. When findings may be set aside
 - § 559. Particular findings found conclusive or adequately supported by evidence
 - § 560. Particular findings found not supported by evidence and not binding on court
 - § 561. Determination and Disposition – Generally
 - § 562. Reversal
 - § 563. Remand
 - § 564. – To take additional evidence
 - § 565. Costs and attorney's fees**
 - § 566. Further Review – Generally
 - § 567. Appeal by administrative agency
 - § 568. Decisions appealable
 - § 569. Scope of review
 - § 570. – Findings of fact; conclusions of law

- § 571. Determination and disposition
- § 572. Costs
- § 573. Attorney's fees**
- § 575. Exhaustion of administrative remedies

TEXTS & TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- 1 *Labor and Employment in Connecticut: A Guide to Employment Laws, Regulations and Practices*, 2nd ed., by Jeffrey L. Hirsch, Matthew Bender, 2000, with 2020 supplement.
 - Chapter 16. Termination of Employment
 - § 16-5. Unemployment Compensation
 - [.0a] Generally
 - [a] Unemployment Compensation – Eligibility
 - [e] Employee Benefits – Amount and Eligibility
 - [f] Ineligibility for Benefits
 - [g] Benefits payable
 - [h] Extended benefits
- 1 Connecticut Practice Series, *Superior Court Civil Rules*, 2020-2021 ed., by Wesley W. Horton et al., Thomson West (also available on Westlaw).
 - Chapter 22. Unemployment Compensation
 - See Authors' Comments after each section**
- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Authors' Comment to Form 204.2. Appeal from Decision of the Employment Security Board of Review**, pp. 407-410
- *Connecticut Employment Law*, 5th ed., by Pamela J. Moore, Connecticut Law Tribune, 2020.
 - Chapter 9. Unemployment Compensation
 - § 9-5. Appeal Procedures
 - § 9-5: 1. Board of Review
 - § 9-5: 2. Record Review or Testimony
 - § 9-5: 3. Written Decisions
 - § 9-5: 4. Appeal to Superior Court
 - § 9-5: 4.1. Standard of Review
- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
 - Chapter 22. Unemployment Compensation
 - See Notes of Decisions for each section
- Robert A. DeMarco, *Connecticut Unemployment Compensation: Eligibility, Disqualification and the Appeal Process*, 5 University of Bridgeport Law Review 145, issue 1, pp. 145-174 (1983)

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

Section 1a: Record

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources regarding the record and motions to correct the record in Connecticut unemployment compensation appeals to the superior court.

DEFINITIONS:

Function of the Court:

"Such appeals are heard by the court upon the certified copy of the record filed by the board. The court does not retry the facts or hear evidence. It considers no evidence other than that certified to it by the board, and then for the limited purpose of determining whether the finding should be corrected, or whether there was any evidence to support in law the conclusions reached." CT Practice Book § [22-9\(a\)](#) (2021).

Board responsibilities:

"In all cases, the board shall certify the record to the court." Conn. Gen. Stat. § [31-249b](#) (2021).

"At the time the petition is mailed to the clerk, or as soon thereafter as practicable, the chair of the board shall cause to be mailed to the clerk a certified copy of the record . . ." Conn. Practice Book § [22-1\(b\)](#) (2021).

"Upon request of the court, the board shall (1) in cases in which its decision was rendered on the record of such hearing before the referee, prepare and verify to the court a transcript of such hearing before the referee; and (2) in cases in which its decision was rendered on the record of its own evidentiary hearing, provide and verify to the court a transcript of such hearing of the board." Conn. Gen. Stat. § [31-249b](#) (2021).

"The judicial authority may, on request of a party to the action or on its own motion, order the board to prepare and verify to the court a transcript of the hearing before the referee in cases in which the board's decision was rendered on the record of such hearing, or a transcript of the hearing before the board in cases in which the board's decision was rendered on the record of its own evidentiary hearing." Conn. Practice Book § [22-1\(c\)](#) (2021).

Contents of the record:

"The record shall consist of the notice of appeal to the referee and the board, the notices of hearing before them, the referee's findings of fact and decision, the findings and decision of the board, all documents admitted into evidence before the referee and the board or both and all other evidentiary material accepted by them." Conn. Gen. Stat. § [31-249b](#) (2021).

"[T]he record . . . shall consist of the notice of appeal to the referee and the board, the notices of hearing before them, the referee's findings of fact and decision, the findings and decision of the board, all documents admitted into evidence before the referee and the board or both, and all other evidentiary **material accepted by them.**" Conn. Practice Book § [22-1\(b\)](#) (2021).

"Following the Board's receipt of such appeal, the Chairman shall, pursuant to the existing law, cause the original appeal petition and the appeal record to be certified to the appropriate Superior Court. Such record shall consist of all pertinent file records concerning such appeal including:

- (1) the relevant Administrator's record in the file;
- (2) all appeals and accompanying materials filed with the Appeals Division;
- (3) all written notices and decisions of the Appeals Division;
- (4) all written requests, motions, argument or material correspondence timely-filed or considered concerning such appeal;
- (5) the Appeals Division record of oral requests, reports, notifications and decisions made pursuant to these regulations concerning such appeal;
- (6) all documents and exhibits admitted into evidence by the Appeals Division;
- (7) all other evidentiary material accepted by the Appeals Division.

(c) Each such certification to the Superior Court pursuant to subsection (b) above shall have, as a cover sheet, a notice of such certification which itemizes the appeal record thus certified. Such notice shall be prepared and delivered in accordance with Section 31-237g-13(a) of these regulations and each copy of such notice mailed to the parties, attorneys and authorized agents of record shall include a copy of the appeal to the Superior Court. . .

(e) Upon request of the Superior Court, the Board shall prepare and certify to the Court a transcript of the hearing before the Referee and/or the Board, as the court may direct." Regulations of CT State Agencies § [31-237g-51\(b\)](#).

**ADDITIONAL
INFORMATION:**

Motion to correct the record:

"If the appellant desires to have the finding of the board corrected, he or she must, within two weeks after the record has been filed in the Superior Court, unless the time is extended for cause by the board, **file with the board a motion for the correction of the finding** and with it such portions of the evidence as he or she deems relevant and material to the corrections asked for, certified by the stenographer who took it; but if the appellant claims that

substantially all the evidence is relevant and material to the corrections sought, he or she may file all of it, so certified, indicating in the motion so far as possible the portion applicable to each correction sought. The board shall forthwith upon the filing of the motion and of the transcript of the evidence, give notice to the adverse party or parties.” (Emphasis added.) Conn. Practice Book § [22-4](#) (2021).

“Any party who objects to the inclusion or exclusion of documents in the record certified to the Superior Court may file with the Board a request to correct the certification. The Board, upon notice to the parties, shall issue a written decision on such request and shall certify to the court the request, any objection to the request, the Board's decision, and any correction to the record originally certified.” Regulations of CT State Agencies § [31-237g-51\(d\)](#).

Motion to correct findings:

“(a) A party seeking to have the findings of fact of the Board corrected must file a motion to correct findings of fact with the Board. Such motion must be filed within two weeks of the Board's filing of the record of an appeal to the Superior Court. A party may, within such two-week period, seek an extension of time for the filing of such a motion, and the Board shall grant an extension where the moving party indicates that it has filed with the Superior Court a request that the Board prepare a transcript of the hearings before the Referee and the Board or otherwise demonstrates good cause for its request. The Board shall deny an untimely request for an extension of time unless the moving party demonstrates good cause for failing to file its request within the two-week period. For purposes of this provision, good cause shall include such factors listed in Section 31-237g-49 of these regulations as may be relevant. The moving party should indicate in and attach to its motion such portions of the evidence, including relevant portions of the transcript, which **support each correction sought.**” Regulations of CT State Agencies § [31-237g-51a](#).

Notice and objection:

“(b) Upon receipt of a motion to correct findings, the Board shall provide each adverse party notice of the filing of the motion. Each adverse party shall have seven (7) calendar days from the mailing of the Board's notice in which to file with the Board objections to the motion to correct. Any objecting party may file with the Board additional evidence which it believes is relevant and material to the motion to correct.” Regulations of CT State Agencies § [31-237g-51a](#).

Decision on motion to correct:

“(c) Upon expiration of the time provided for filing objections, the Board shall issue a written decision on the motion to correct. The Board shall certify to the Court the motion, any objection thereto, and the Board's decision. If the Board denies

the motion to correct in whole or in part, and the denial is made an additional ground of appeal to the Court, the Board shall certify to the Court all evidence and transcripts, not previously certified, which the Board deems relevant and material.” Regulations of CT State Agencies § [31-237g-51a](#).

Claims of error on decision on motion to correct:

“(d) Any party to the appeal may file claims of error concerning the Board's decision on a motion to correct the finding. Such claims shall be filed with the Court within two weeks from the date on which the Board's decision on the motion to correct was mailed to the party making the claim and shall contain a certification that a copy thereof has been served on the Board and on each other party to the appeal in accordance with Sec. 120 of the Practice Book.

The appellant shall include his or her claims of error in the appeal petition unless they are filed subsequent to the filing of that petition, in which case they shall be set forth in an amended petition.” Regulations of CT State Agencies § [31-237g-51a](#).

“When considering an appeal from the board, we have stated that [a] plaintiff’s failure to file a timely motion [to correct] the board’s findings in accordance with [Practice Book] §22-4 prevents further review of those facts found by the board In the absence of a motion to correct the findings of the board the court is not entitled to retry the facts or hear evidence. It considers no evidence other than that certified to it by the board, and then for the limited purpose of determining whether . . . there was any evidence to support in law the conclusions reached.” [Davis v. Administrator, Unemployment Compensation Act](#), 155 Conn. App. 259, 262-63, 109 A.3d 540 (2015).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

Conn. Gen. Stat. (2021)
[Title 31](#). Labor
[Chapter 567](#). Unemployment Compensation
§ [31-249b](#). Appeal

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

Connecticut Practice Book (2021)
[Chapter 22](#). Unemployment Compensation
§ 22-1. Appeal
§ 22-3. Finding
§ 22-4. Correction of Finding; Motion to Correct Finding
§ 22-5. – Evidence to Be Filed by Appellee
§ 22-6. – Motion to Correct by Appellee
§ 22-7. – Duty of Board on Motion to Correct
§ 22-8. – **Claiming Error on Board’s Decision on Motion to Correct**

§ 22-9. Function of the Court

ONLINE RESOURCES:

[Step 4: Ask the Board to make corrections](#), from [Appealing an Unemployment Decision to Superior Court](#), by CTLawHelp.org

FORMS:

Motion to the Board of Review to Correct Findings of Fact, [Finkenstein v. Administrator](#), 192 Conn. 104, records and briefs, argued November 1983. [Figure 1](#).

Decision of the Board on Motion to Correct Findings of Fact, [Finkenstein v. Administrator](#), 192 Conn. 104, records and briefs, argued November 1983. [Figure 2](#).

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

Connecticut Supreme Court:

- [Finkenstein v. Administrator](#), 192 Conn. 104, 112-113, 470 A.2d 1196, 1984 Conn. Lexis 507 (1984). “We have stated previously that the Superior Court does not retry the facts or hear evidence in appeals under our unemployment compensation legislation. Rather, ***it acts as an appellate court to review the record certified and filed by the board of review.*** [Burnham v. Administrator](#), 184 Conn. 317, 321, 439 A.2d 1008 (1981). The court “is bound by the findings of subordinate facts and reasonable factual conclusions made by the appeals referee where, as here, the board of review adopted the findings and affirmed the decision of the referee.” *Id.*, quoting [DaSilva v. Administrator](#), 175 Conn. 562, 564, 402 A.2d 755 (1978). “Conclusions of law reached by the referee cannot stand, however, if the court determines that they resulted from an incorrect application of the law to the facts found or could not reasonably and logically follow from such facts. Although the court may not substitute its own conclusions for those of the referee, the court’s ultimate duty is to decide whether the referee acted unreasonably, arbitrarily or illegally. [Guevara v. Administrator](#) [172 Conn. 492, 495, 374 A.2d 1101 (1977)].” . . . Thus, we have recognized that our standard of review in administrative proceedings must allow for judicial scrutiny of claims such as constitutional error, jurisdictional error, or error in the construction of an agency’s authorizing statute.” (Emphasis added.)

Connecticut Appellate Court:

- [Seward v. Administrator, Unemployment Compensation Act](#), 191 Conn. App. 578, 586, 215 A3d 202 (2019). “(failure to file timely motion for correction of board’s findings in accordance with Practice Book § 22-4 prevents further review of facts found by board); [Shah v. Administrator, Unemployment Compensation Act](#), 114 Conn. App. 170, 176, 968 A.2d 971 (2009).”

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Pajor v. Administrator, Unemployment Compensation Act](#), 174 Conn. App. 157, 165, 165 A.3d 265 (2017). "The plaintiff is also incorrect in his assertion that the filing of such a motion [to correct] permits the court to review the **board's credibility determinations. Practice Book § 22-9 (b) provides:** 'Corrections by the court of the **board's finding** will only be made upon the refusal to find a material fact which was an admitted or undisputed fact, upon the finding of a fact in language of doubtful meaning so that its real significance may not clearly appear, or upon the finding of a **material fact without evidence.'** Section 22-9 (a) provides **that, despite the filing of a motion to correct, a court's** review of the **board's findings** does not extend to 'conclusions of the board when these depend on the weight of the evidence and the credibility of witnesses.'"
- [Martinez v. Administrator, Unemployment Compensation Act](#), 170 Conn. App. 333, 338-339, 154 A.3d 1048 (2017). "Practice Book § 22-4 provides the mechanism for the **correction of the board's findings. It states that '[i]f the** [plaintiff] desires to have the finding of the board corrected, he or she must, within two weeks after the record has been filed in the superior court ... file with the board a motion for the correction of the finding and with it such portions of the evidence as he or she deems relevant and material to the corrections asked for....'

'A plaintiff's failure to file a timely motion [to correct] the board's findings in accordance with [Practice Book] § 22-4 prevents further review of those facts found by the board.... In the absence of a motion to correct the findings of the board, the court is not entitled to retry the facts or hear new evidence.' (Internal quotation marks omitted.) [Resso v. Administrator](#), Unemployment Compensation Act, 147 Conn. App. 661, 665, 83 A.3d 723 (2014).

In the present case, the plaintiff failed to file a motion to correct with the board, a necessary prerequisite to a challenge of the board's findings. Despite no motion being filed, the court, in examining the board's decision, reviewed the evidence to determine its sufficiency and its credibility, and then substituted its own conclusions for those of the board. Specifically, the court determined that there was no finding that, if jury duty was cancelled, the employer required its employees to return to work. In addition, the court determined that the record did not indicate whether the plaintiff went to the court and was told jury duty was cancelled or at what time the plaintiff was told jury duty was cancelled. Moreover, the court determined that Accuosti's knowing that jury duty was cancelled on October 21 because he looked it up on the judicial branch website was not credible. Absent a motion to correct, the court did

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

not have the authority to attack the findings of the board and make these new findings.”

- [Phillips v. Administrator, Unemployment Compensation Act](#), 157 Conn. App. 342, 115 A3d 1162 (2015). “The board noted the underlying record may not be supplemented without good cause. Although new evidence may provide a basis for opening the record, the evidence must be new and not discoverable through the exercise of due diligence. See Regs., Conn. State Agencies § 31-237g-35; *Meehan Real Estate v. Administrator, Unemployment Compensation Act*, Superior Court, judicial district of Windham, Docket No. CV-11-5005707-S (April 2, 2012). **The board’s review of a referee’s decision is limited to the existing record.**” (p. 348)

“The plaintiff also attempted to raise new allegations outside of the existing record, which she may not do. See [Mayo v. Administrator, Unemployment Compensation Act](#), 136 Conn. App. 298, 301–302, 44 A.3d 883 (2012).” (pp. 348-349)

“The board stated that even if it had considered the plaintiff’s new claims, they were not likely to alter its conclusion. The board further stated that although a party to an unemployment compensation proceeding has the right to be represented by counsel, a party is not provided a second hearing if the party failed to obtain legal representation at the first hearing. See Regs., Conn. State Agencies § 31-237g-11 (a).” (p. 349)

- [Chicattell v. Administrator, Unemployment Compensation Act](#), 145 Conn. App. 143, 149, 74 A. 3d 519 (2013). “Further, it bears repeating that ‘[i]n the absence of a motion to correct the findings of the board, the court is not entitled to retry the facts or hear evidence. It considers no evidence other than that certified to it by the board, and then for the limited purpose of determining whether . . . there was any evidence to support in law the conclusions reached. [The court] cannot review the conclusions of the board when these depend upon the weight of the evidence and the credibility of witnesses.’ (Internal quotation marks omitted.) Id., 275, citing Practice Book § 22-9 (a).”
- [Manukyan v. Administrator, Unemployment Compensation Act](#), 139 Conn. App. 26, 54 A.3d 602 (2012). “Our Supreme Court has held that when the Superior Court reviews an appeal from the employment security board of review (board), and no timely motion to correct has been filed with the board, the board’s factual findings are not subject to further review by the Superior Court or an appellate court. [JSF Promotions, Inc. v. Administrator, Unemployment Compensation Act](#), 265 Conn. 413, 422, 828 A.2d 609 (2003). The court only looks to whether the referee’s and

board's conclusions are reasonably and logically drawn. See [Howell v. Administrator, Unemployment Compensation Act](#), 174 Conn. 529, 533, 391 A.2d 165 (1978) . . .” (pp. 27-28)

“It was the plaintiff’s obligation, under practice Book § 22-4, to make a timely motion to correct if he claimed any lack of clarity or error in the board’s findings . . .” (p. 38)

Connecticut Trial/Superior Court:

- [Sessions v. Administrator](#), Unemployment Compensation Act, Judicial District of New Britain, CV19-5024846 (2019 Conn. Super. Lexis 2791) (2019 WL 5957879) (October 25, 2019). “The issue in this appeal is whether the decision of the board that the plaintiff is ineligible for benefits because she was discharged by her employer for willful misconduct in the course of her employment resulted from a correct application of the law to the facts found and could reasonably and logically follow from such facts. [Robinson v. Unemployment Security Board of Review](#), *Supra*, 181 Conn. 5. The plaintiff did not file a motion to correct the facts found. **After reviewing the certified record and the parties’ pleadings and arguments**, the court concludes that the decisions of the Board to deny the Motion to Reopen and to deny the claimant eligibility for unemployment compensation benefits follow reasonably and logically from the facts found and correctly apply the law to those facts. The findings of fact and conclusions of law are not arbitrary, illegal or an abuse of discretion.”

WEST KEY NUMBERS:

Unemployment Compensation – Judicial Review
450-500
465. Record; transcript

TEXTS & TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
Authors’ Comment to Form 204.2, pp. 407-410
- 1 Connecticut Practice Series, *Superior Court Civil Rules*, 2020-2021 ed., by Wesley W. Horton et al., Thomson West (also available on Westlaw).
Chapter 22. Unemployment Compensation
See Authors’ Comments after each section
- *Connecticut Employment Law*, 5th ed., by Pamela J. Moore, Connecticut Law Tribune, 2020.
Chapter 9. Unemployment Compensation
§ 9-5. Appeal Procedures
§ 9-5:1. Board of Review
§ 9-5:2. Record Review or Testimony

- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
Chapter 22. Unemployment Compensation
See Notes of Decisions for each section

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- Robert A. DeMarco, *Connecticut Unemployment Compensation: Eligibility, Disqualification and the Appeal Process*, 5 *University of Bridgeport Law Review* 145, issue 1, pp. 145-174 (1983)

Figure 1: Motion to the Board of Review to Correct Findings of Fact

Motion to the Board of Review to Correct Findings of Fact

The plaintiff in the above-entitled case respectfully moves that the Findings of Fact be corrected as follows:

1. By deleting and amending Paragraph 7 to state:

Ms. Fitzgerald being in another room only overheard from a distance and only overheard parts of the conversation between Dr. Nanda and the claimant. Her memory as to those parts that she did overhear was not clear. Upon seeing **the claimant and the claimant's reactions to Dr. Nanda's statement, Ms. Fitzgerald** thought that the claimant had been fired and was certain that the claimant believed she had been fired. (This correction is based on Pages 13, 24, 25, 27, and 28, of the transcript certified to the Court and on the corresponding pages of the attached transcript).

2. By adding the following paragraph:

7 (a) In her conversation with the claimant on July 30, 1979, Dr. Nanda failed to make her intentions clear to the claimant. Dr. Nanda admitted to a lack of proficiency in the English language. (This addition is based on Pages 10, and 15, of the transcript certified to the Court and on the corresponding pages of the attached transcript).

The Appellant

September 29, 1980

Figure 2: Decision of the Board on Motion to Correct Findings of Fact

Motion to the Board of Review to Correct Findings of Fact

The claimant, through counsel, filed with the Board of Review a Motion to Correct **Findings of Fact, said findings being those recited in the Appeals Referee's decision of December 12, 1979 and which were adopted by the Board of Review in issuing its decision on the claimant's appeal from the Referee's decision in the** above captioned unemployment compensation matter.

"Facts will not be added unless they are undisputed and material. Cutler v. MacDonald, 174 Conn. 606, 608-10, 392 A. 2d 476. Omissions will not be corrected if the change sought amounts to a request that **we accept the appellant's version of the facts. Edgewood Construction Co. v. West Haven Redevelopment Agency, 170 Conn. 271, 272, 365 A.2d 819. Nor will corrections be made by adding facts already included in the finding in different language. Cleveland v. Cleveland, 165 Conn. 95, 96, 328 A.2d 691." Deer Island Association v. Trolle, 41 Conn. L. J., No. 50, p. 18, 19.**

The claimant's Motion to Correct Findings of Fact having been heard and it appearing that no factual or legal basis has been presented to warrant and require the requested corrections, the motion is herewith denied.

Chairman,
Board of Review

November 19, 1980

Section 1b: Hearing

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources regarding the hearing in Connecticut unemployment compensation appeals to the superior court.

DEFINITIONS:

“Appeals from decisions of the employment security board of review are privileged with respect to their assignment for trial, but they shall be claimed for the short calendar. The judicial authority, however, may order the appeal placed on the administrative appeal trial list.” Conn. Practice Book § [22-2\(a\)](#) (2021).

“Such appeals shall be claimed for the short calendar unless the court shall order the appeal placed on the trial list.” Conn. Gen. Stat. § [31-249b](#) (2021).

ADDITIONAL INFORMATION:

“In any appeal in which one of the parties is not represented by counsel and in which the party taking the appeal does not claim the case for the short calendar or trial within a reasonable time after the return day, the judicial authority may of its own motion dismiss the appeal, or the party ready to proceed may move for nonsuit or default as appropriate.” Conn. Practice Book § [22-2\(b\)](#) (2021).

“In any appeal in which one of the parties is not represented by counsel and in which the party taking the appeal does not claim the case for the short calendar or trial within a reasonable time after the return day, the court may of its own motion dismiss the appeal, or the party ready to proceed may move for nonsuit or default as appropriate.” Conn. Gen. Stat. § [31-249b](#) (2021).

“The judicial authority may, on request of a party to the action or on its own motion, order the board to prepare and verify to the court a transcript of the hearing before the referee in cases in which the board's decision was rendered on the record of such hearing, or a transcript of the hearing before the board in cases in which the board's decision was rendered on the record of its own evidentiary hearing.” Conn. Practice Book § [22-1\(c\)](#) (2021).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

Conn. Gen. Stat. (2021)

[Title 31](#). Labor

[Chapter 567](#). Unemployment Compensation

§ [31-249b](#). Appeal

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

WEST KEY NUMBERS:

Connecticut Practice Book (2021)
Chapter 22. Unemployment Compensation
§ [22-2](#). Assignment for Hearing

CASELAW:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

Unemployment Compensation – Judicial Review
450-500
498. Rehearing, reopening or reconsideration

- [Pajor v. Administrator, Unemployment Compensation Act](#), 174 Conn. App. 157, 165 A.3d 265 (2017). **“The plaintiff next claims that the court improperly concluded that the board’s determination that he lacked good cause for his failure to attend the remand hearing was not arbitrary, unreasonable, or an abuse of discretion. Specifically, he argues that he had been actively prosecuting the appeal for a year, and, thus, the referee’s determination that he deliberately chose not to attend the remand hearing as a “delay tactic” was unavailing. The plaintiff further argues that he failed to attend the hearing because of a language barrier between himself and his counsel. He alleges that, during a meeting following the board’s remand to the referee for a hearing on the merits, his attorney communicated with him in Polish, the language in which the plaintiff is proficient, in regard to the upcoming hearing, and that he had left that meeting with the mistaken impression that his counsel would ‘take care of’ the hearing, either by attending it or providing him with further instructions. We are not persuaded by the plaintiff’s arguments.”** (pgs. 169-170)

“The plaintiff, on appeal, does not dispute the board’s findings that he met with his counsel and discussed the scheduled hearing. He argues only that he misunderstood his counsel’s advice because his counsel had an alleged limited ability to communicate in Polish. It is clear, in our review of the board’s September 30, 2013 decision, that its findings depended on the weight of all of the evidence before it and that those findings did not discount the plaintiff’s conversation with his counsel about the hearing. In fact, the board made a credibility determination that the plaintiff’s alleged confusion lacked merit in light of his counsel’s advice that he would prevail if he answered the referee’s and employer’s questions at the hearing. It further determined that he had received a similar notice to appear at a prior hearing and did so appear, and thus he should have been well aware of his required presence at the July 9, 2013 hearing.

On the basis of the record before us, we conclude that the board was presented with substantial evidence to justify **its conclusions concerning the plaintiff's failure to prosecute** the appeal. Accordingly, we agree with the court that the **board's decision was logically based upon** its findings of fact, and that there is nothing in the record to indicate that **its decision was unreasonable, arbitrary, or illegal.**" (pgs. 171-172)

- [Phillips v. Administrator, Unemployment Compensation Act](#), 157 Conn. App. 342, 349, 115 A3d 1162 (2015). "The board further stated that although a party to an unemployment compensation proceeding has the right to be represented by counsel, a party is not provided a second hearing if the party failed to obtain legal representation at the first hearing. See Regs., Conn. State Agencies § 31-237g-11 (a)."
- [Cragg v. Administrator, Unemployment Compensation Act](#), 160 Conn. App. 430, 442-443, 125 A.3d 650 (2015). "It is apparent that under Practice Book § 22-2, titled '**Assignment for Hearing**,' parties bringing appeals from the decisions of the board to the trial court are entitled to oral argument as to the merits of their appeal. As a general proposition, it is self-evident that parties should be afforded the right to be heard on the merits of their appeal; this is fair, reasonable, and fundamental to our adversarial system. Indeed, it is commonplace for courts to hold hearings before ruling on motions for judgment. . . In the present case, the plaintiff attempted to invoke her right to a hearing through her three separate requests for oral argument. The plaintiff argues that the court should not have deprived her of **oral argument merely because** 'she filed the wrong form, requesting argument rather than **claiming the case for a trial.**' In essence, the plaintiff contends that she put the court on notice three times that she wished to be heard on the merits of her appeal and, therefore, did not waive her right to oral argument. The **court, nonetheless, dismissed the plaintiff's appeal without** affording her a hearing. We therefore conclude that the **court should not have granted the administrator's motion** for judgment absent oral argument.

Given the procedural realities of this case, however, the failure to permit the plaintiff to be heard was harmless error. . . Although we conclude, under the particular circumstances of this case, that the error is harmless, we, nonetheless, reiterate the importance of providing litigants with the opportunity to be heard on the merits of their appeals consistent with chapter 22 of the Practice Book and [Law Offices of Neil Johnson v. Administrator, Unemployment Compensation Act](#), supra, 101 Conn. App. 782, 924 A.2d

859. In a future case, different circumstances might dictate a different result.” (Internal citations omitted.)

- [Manukyan v. Administrator, Unemployment Compensation Act](#), 139 Conn. App. 26, 32, 54 A.3d 602 (2012). “The matter was taken on the papers because neither party requested oral argument.”
- Robert A. DeMarco, *Connecticut Unemployment Compensation: Eligibility, Disqualification and the Appeal Process*, 5 University of Bridgeport Law Review 145, issue 1, pp. 145-174 (1983)

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