

IN THE SUPREME COURT OF THE STATE OF NEVADA

SUSAN REEVES,
Appellant,
vs.
BALLY'S GRAND HOTEL & CASINO,
Respondent.

No. 56776

FILED

APR 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying a petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

On appeal, appellant challenges the district court's denial of her petition for judicial review, which sought to overturn an appeals officer's decision to dismiss her appeal for lack of jurisdiction. Appellant sustained an industrial injury in September 1988, and respondent accepted her injury as compensable. In July 2004, respondent denied appellant's claim for temporary total disability (TTD) benefits, which the hearing officer affirmed on November 30, 2004. Appellant appealed that decision on January 12, 2005, and, after a hearing, the appeals officer dismissed the appeal, finding it lacked jurisdiction to consider the decision because the appeal was not timely filed under NRS 616C.345(1). Appellant petitioned for judicial review and the district court denied the petition, finding that there was substantial evidence to support the decision and that there was no legal error in the appeals officer's determination regarding jurisdiction.

This court reviews an appeals officer's decision in a workers' compensation matter for clear error or abuse of discretion. Vredenburg v. Sedgwick CMS, 124 Nev. 553, 557, 188 P.3d 1084, 1087 (2008). On issues of fact, the appeals officer's decision will not be disturbed if it is supported by substantial evidence, which is "evidence that a reasonable person could

accept as adequately supporting a conclusion.” Id. at 557 & n.4, 188 P.3d at 1087 & n.4 (internal citation omitted). Decisions on pure issues of law are reviewed de novo. Id. at 557, 188 P.3d at 1088. When the conclusions of law are closely related to the agency’s view of the facts, however, they are entitled to deference and will also not be disturbed if supported by substantial evidence. Campbell v. State, Dep’t of Taxation, 109 Nev. 512, 516, 853 P.2d 717, 719 (1993).

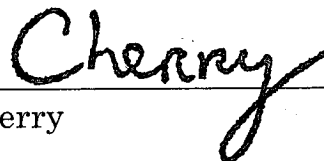
On appeal, appellant argues that the statutory requirements in force in 1988 when she suffered her industrial injury should apply to her appeal of the hearing officer’s decision, which would give her 60 days to file her appeal. The statute providing the deadline for filing an appeal of an administrative decision was amended in 1991 to allow a claimant to file an appeal within 30 days of an adverse decision, and that limitation period currently remains in effect. NRS 616C.345(1). When a statute does not change substantive rights and instead relates solely to remedies and procedure, it will be applied to any cases pending when it is enacted. Valdez v. Employers Ins. Co. of Nev., 123 Nev. 170, 179-80, 162 P.3d 148, 154 (2007). Here, the statutory amendment only affected procedure and the appeal remedy, and not substantive rights. Thus, the 30-day time limitation was properly applied to appellant’s case.¹


Appellant testified before the appeals officer that she mailed her appeal regarding TTD benefits, which was file-stamped on January 12, 2005, in the same envelope with two other appeals, including one that was file-stamped on December 8, 2004, and another file-stamped on January 12, 2005. The appeals officer determined that there was no evidence to support that all three appeal forms were received on the same

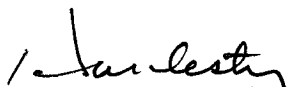
¹Additionally, the November 30, 2004, decision by the hearing officer provided appellant with notice of the current statutory requirements, including the 30-day period to file an appeal.

day and that the appeal regarding TTD benefits was untimely filed on January 12, 2005, nine days after the appeal period closed. This court does not reweigh the evidence, reassess witness credibility, or substitute the administrative officer's judgment with its own on issues of fact. Nellis Motors v. State, DMV, 124 Nev. 1263, 1269-70, 197 P.3d 1061, 1066 (2008). Because the file-stamped date on the appeal is evidence that a reasonable person could accept as adequately showing that the appeal was not timely received, we will not disturb the appeals officer's determination. See Vredenburg, 124 Nev. at 557, 188 P.3d at 1087-88 (2008). Therefore, the appeals officer properly found that it lacked jurisdiction over the matter. Reno Sparks Visitors Auth. v. Jackson, 112 Nev. 62, 66-67, 910 P.2d 267, 270 (1996); SIIS v. Partlow-Hursh, 101 Nev. 122, 124-25, 696 P.2d 462, 463-64 (1985). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Cherry


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. James M. Bixler, District Judge
Susan Reeves
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Eighth District Court Clerk

²Having considered appellant's argument that she was entitled to continued TTD benefits as a matter of law, we conclude that this contention lacks merit and thus does not warrant reversal.