

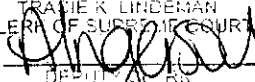
IN THE SUPREME COURT OF THE STATE OF NEVADA

NOUREDDINE ELASALI,
Appellant,
vs.
STATE OF NEVADA, DEPARTMENT
OF EMPLOYMENT, TRAINING AND
REHABILITATION,
Respondent.

No. 60868

FILED

JAN 21 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from a district court order dismissing a petition for judicial review for lack of jurisdiction in a workers' compensation matter. First Judicial District Court, Carson City; James Todd Russell, Judge.

In the proper person appeal statement, appellant asserts that her petition for judicial review was timely submitted to the district court. The district court dismissed the underlying petition as untimely filed. On October 24, 2013, this court directed respondent to file a response specifically addressing whether this matter should be reversed and remanded to the district court to make factual findings regarding when the district court actually received appellant's petition for judicial review. We noted that it is the date of actual receipt of documents, rather than the subsequent filing date, that controls for jurisdictional and limitation

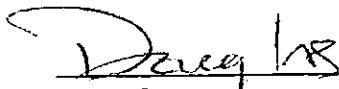
purposes. See *Huebner v. State*, 107 Nev. 328, 330-32, 810 P.2d 1209, 1211-12 (1991) (explaining that the district court clerk must stamp every document with the date of receipt, whether or not the document is actually filed, as the court's jurisdiction can turn upon the date that the district court clerk obtains custody of certain documents); see also *Sullivan v. Eighth Judicial Dist. Court*, 111 Nev. 1367, 904 P.2d 1039 (1995) (noting that, when a district court receives a complaint accompanied by an application for *in forma pauperis* status, the district court must file the application and stamp the complaint received and, if *in forma pauperis* status is ultimately granted, the complaint is considered filed on the date of actual receipt for limitations purposes). The district court did not make any factual findings regarding when the district court actually received appellant's petition for judicial review, and such findings are necessary here to determine whether the petition was timely filed so as to invoke the district court's jurisdiction. See *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009) (explaining that this court reviews subject matter jurisdiction de novo).

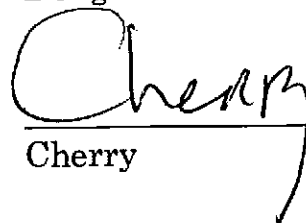
In response to our order, respondent concedes that there is an ambiguity as to when the district court clerk received appellant's petition for judicial review and that this matter should be reversed and remanded for additional findings and a new ruling on respondent's motion to dismiss. Accordingly, we reverse the district court's order dismissing appellant's

petition for judicial review and remand this matter to the district court for further proceedings in accordance with this order.¹

It is so ORDERED.²


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. James Todd Russell, District Judge
Noureddine Elasali
State of Nevada/DETR
Carson City Clerk

¹In its motion to dismiss below, respondent argued that the petition was improperly served as an alternate ground for dismissal. The district court did not make findings regarding this argument or dismiss the petition on that basis. We note that our order does not preclude respondent from reasserting this argument or the district court from considering it on remand.

²In light of this order, we deny as moot appellant's December 24, 2013, proper person request for permission to file a reply in this appeal.