

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

GORDON KURZ,)	
)	
Appellant,)	
)	
V.)	C.A. No. N15A-03-003 CEB
)	
DIVISION OF UNEMPLOYMENT)	
INSURANCE and DELAWARE)	
UNEMPLOYMENT INSURANCE)	
APPEALS BOARD,)	
Appellee.)	

Date Submitted: July 20, 2015
Date Decided: September 22, 2015

Upon Consideration of
Appeal From the Unemployment Insurance Appeal Board.
AFFIRMED.

This 22nd day of September, 2015, upon consideration of the *pro se* appeal of Gordon Kurz (“Claimant”) from the decision of the Unemployment Insurance Appeal Board (the “Board”), disqualifying him from the receipt of unemployment benefits, it appears to the Court that:

1. On Monday, November 24, 2014 at 11:00 a.m., the Department of Labor (“DOL”) held a Reemployment and Eligibility Assessment (“REA”)

workshop as part of its REA program.¹ Approximately 14 days before the REA workshop, the DOL notified Claimant that if he did not attend the workshop, he would be reported to Unemployment Insurance as non-compliant, and that non-compliance would affect his unemployment insurance benefits.² That notice came in the form of a letter that listed the location of the workshop in bold letters at the bottom of the letter.³

2. It is undisputed that Claimant did not attend the REA workshop on November 24, 2014. Claimant has reiterated that he initially went to the wrong location, but by the time he arrived at the correct location, the REA workshop had already started and he was not permitted to enter. As a result, the DOL ruled that Claimant was ineligible for the receipt of unemployment insurance benefits for the week ending November 29, 2014.⁴ Claimant appealed that determination

3. An administrative hearing was held before Appeals Referee Jacqueline R. Richmond on January 16, 2015. The only issue before the Appeals Referee was whether Claimant complied with the REA program. At the hearing, Claimant testified that it was his intention to attend the REA workshop, but he

¹ Record at 20 (hereinafter “R. at _”).

² *Id.*

³ *Id.*

⁴ R. at 5.

went to the wrong location. Claimant testified that he arrived at the correct location after the workshop had already started and he was not permitted to enter.⁵ Accordingly, the Appeals Referee found that Claimant was ineligible for unemployment insurance benefits for the week ending November 29, 2014 because he did not attend the REA workshop on November 24, 2014.⁶ Claimant timely appealed the Referee's decision.

4. The Board affirmed the Referee's decision. The Board found that Claimant failed to comply with DOL regulations when he did not attend the REA workshop on November 24, 2014. Claimant appealed the Board's decision to the Superior Court.

5. This Court's review of Claimant's appeal is limited to a review of legal error and a determination of whether "substantial evidence exists to support the Board's findings of fact and conclusions of law."⁷ "Substantial evidence is that relevant evidence that a reasonable mind might accept as adequate to support a conclusion."⁸ The Board's decision is reviewed *de novo* for errors of law.⁹ In the

⁵ R. at 14-15.

⁶ R. at 18.

⁷ *Arrants v. Home Depot*, 65 A.3d 601, 604 (Del. 2013).

⁸ *Wyatt v. Rescare Home Care*, 81 A.3d 1253, 1258-59 (Del. 2013) (internal citations omitted).

⁹ *Arrants*, 65 A.3d at 604.

absence of legal error, the Board's decision is reviewed for abuse of discretion.¹⁰ The Court will find an abuse of discretion when the Board's decision "exceeds the bounds of reason in view of the circumstances and has ignored recognized rules of law or practice so as to produce injustice."¹¹ On appeal, the Court will not "weigh the evidence, determine questions of credibility, or make its own factual findings."¹²

6. In his filings with this Court, Claimant argues that, although the DOL may deny unemployment insurance benefits in their discretion when a claimant misses REA workshops, the DOL should not have denied them in this case because Claimant attempted to attend the workshop, but he arrived late and was not permitted to enter. Essentially, Claimant argues that his mistake as to the correct location of the REA workshop provides "good cause" for his failure to attend the REA workshop.

7. 19 *Del. C.* § 3315(1) provides that "[a]n unemployed individual shall be eligible to receive benefits with respect to any week only if the Department finds that the individual . . . continued to report at an employment office in

¹⁰ *Id.*

¹¹ *McIntyre v. Unemployment Ins. Appeal Bd.*, 2008 WL 1886342, at *1 (Del. Super. Apr. 29, 2008) *aff'd*, 962 A.2d 917 (Del. 2008).

¹² *Person-Gaines v. Pepco Holdings, Inc.*, 981 A.2d 1159, 1161 (Del. 2009).

accordance with such regulations as the Department prescribes”¹³ Claimant admits that he arrived late to the required REA workshop on November 24, 2014 and was not permitted to enter. Therefore, the record supports the Board’s finding that Claimant is ineligible for the receipt of unemployment insurance benefits for the week ending November 29, 2014.

9. Based on the foregoing, the Court is satisfied that the Board applied the correct legal standards and that its decision is supported by substantial evidence. Accordingly, the decision of the Board determining that Gordon Kurz is ineligible for the receipt of unemployment benefits for the week ending November 29, 2014 is **AFFIRMED**.

IT IS SO ORDERED.

/s/ Charles E. Butler
Charles E. Butler, Judge

Original to Prothonotary

¹³ 19 *Del. C.* § 3315(1).