### IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

## IN AND FOR KENT COUNTY

PIERRE CALIXTE,	)
Plaintiff,	) C.A. No. K13A-04-004 JTV
Fiamun,	)
v.	)
	)
MOUNTAIRE FARMS OF	)
DELAWARE, INC.,	)
	)
Defendant.	)

Submitted: January 23, 2014 Decided: April 29, 2014

Pierre Calixte, Pro Se.

Upon Consideration of Appellant's Appeal from the Decision of the Unemployment
Insurance Appeal Board
AFFIRMED

# VAUGHN, President Judge

### **ORDER**

Upon consideration of the appellant's opening brief and the record of the case, it appears that:

1. This is an appeal by Pierre Calixte from the Unemployment Insurance Appeal Board's decision that Mr. Calixte was disqualified from receiving unemployment benefits because he was discharged from his work for just cause.

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- 2. Mr. Calixte worked for Mountaire Farms as a floor man, responsible for cleaning the floor in the employer's plant from February 23, 2009 until his discharge on December 4, 2012. The employer presented evidence that a supervisor named Blance Oney asked Mr. Calixte to clean the floor in Mr. Calixte's work area. Ms. Oney testified that Mr. Calixte got loud and told her that she was not his supervisor and she could not tell him what to do. Ms. Oney then contacted the superintendent. Mr. Calixte was then taken to human resources. Ms. Oney testified that he again refused to clean the floor because it was not his area. As a result, he was terminated for insubordination.
- 3. Mr. Calixte gave testimony which conflicted with that of Ms. Oney. According to his testimony, he was told to clean his work area, which he did. After Mr. Calixte cleaned the area, he left the area to make a delivery. Maurice Grey, a coworker, then put more meat on the floor and told a manager that Mr. Calixte did not clean the floor. Upon Mr. Calixte's return to his work area, Ms. Oney came up to him screaming about Mr. Calixte not cleaning the floor. Mr. Calixte then told Ms. Oney that he cleaned the floor. Ms. Oney then asked for Mr. Calixte's badge. Mr. Calixte told Ms. Oney that only human resources could take his badge. As mentioned, Mr. Calixte was then taken to human resources and was subsequently discharged.
- 4. On February 1, 2013, a Claims Deputy determined that Mr. Calixte was disqualified from receiving unemployment benefits because the employer showed that Mr. Calixte was discharged for willful or wanton misconduct. On March 1, 2013, an Appeals Referee affirmed the Claims Deputy's decision. On April 19, 2013, the UIAB affirmed the Appeals Referee's decision.

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- 5. On appeal, Mr. Calixte contends that there was insufficient evidence to support the UIAB's decision; that he was terminated even though he did clean the floor; that Mr. Grey dirtied the floor and caused Mr. Calixte to get fired; and that when Ms. Oney went to Mr. Calixte screaming about the floor, Mr. Calixte told Ms. Oney that he did clean the floor and Mr. Grey was the one who dirtied it.
- 6. The function of the reviewing court is to determine whether substantial evidence supports the UIAB's findings and whether those findings are free from legal error.¹ Substantial evidence is defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."² "The appellate court does not weigh the evidence, determine questions of credibility, or make its own factual findings."³ If there is substantial evidence and no mistake of law, the UIAB's decision must be affirmed.⁴
- 7. In the hearing before the UIAB, the employer had the burden of proving by a preponderance of the evidence that Mr. Calixte was dismissed for "just cause." "Just cause" is defined as a "willful or wanton act or pattern of conduct in violation of the employer's interest, the employee's duties, or the employee's expected standard

<sup>&</sup>lt;sup>1</sup> *Noel-Liszkiewicz v. La-Z-Boy*, 68 A.3d 188, 191 (Del. 2013) (citing *Stoltz Mgmt. Co. v. Consumer Affairs Bd.*, 616 A.2d 1205, 1208 (Del. 1992)).

<sup>&</sup>lt;sup>2</sup> *Id.* (citing *Streett v. State*, 669 A.2d 9, 11 (Del. 1995)).

<sup>&</sup>lt;sup>3</sup> *Id.* (citing *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965)).

<sup>&</sup>lt;sup>4</sup> City of Newark v. Unemployment Ins. Appeals Bd., 802 A.2d 318, 323 (Del. Super. Mar. 2, 2002).

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of conduct."<sup>5</sup> Additionally, "[t]ermination for insubordination may constitute 'just cause' if 'the insubordination consists of a [willful] refusal to follow the *reasonable* directions or instructions of the employer." <sup>6</sup> A single instance of insubordination may support just cause for termination.<sup>7</sup>

8. I find that the UIAB's decision that Mr. Calixte was terminated for just cause was supported by substantial evidence and was free from legal error. During the February 26, 2013 hearing before the UIAB, Ms. Oney testified that a United States Department of Agriculture ("USDA") inspector asked her to have someone clean the floor;<sup>8</sup> that she calmly and nicely asked Mr. Calixte to clean the floor because it was where he worked;<sup>9</sup> that Mr. Calixte then got into her face, screaming that he was not going to clean the floor;<sup>10</sup> that she went to get her supervisor and upon her return, Mr. Calixte still had not cleaned the floor;<sup>11</sup> and that Mr. Calixte did not

<sup>&</sup>lt;sup>5</sup> *Majaya v. Sojourner's Place*, 2003 WL 21350542, at \*4 (Del. Super. June 6, 2003)(quoting *Avon Prods., Inc. v. Wilson*, 513 A.2d 1315, 1317 (Del. 1986) (per curiam)).

<sup>&</sup>lt;sup>6</sup> *Jarrell v. AmeriSpec Home Inspections, Inc.*, 2011 WL 3908162, at \*4 (Del. Super. Aug. 30, 2011)(internal citations omitted).

<sup>&</sup>lt;sup>7</sup> See id.

<sup>&</sup>lt;sup>8</sup> Tr. of UIAB Hr'g., 12:16-20, Feb. 26, 2013.

<sup>&</sup>lt;sup>9</sup> *Id.* at 12:21-24.

<sup>&</sup>lt;sup>10</sup> *Id.* 12:25-13:2.

<sup>&</sup>lt;sup>11</sup> *Id.* 13:9-10.

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clean the floor before he was brought to human resources.<sup>12</sup> Also, during the February 26, 2013 hearing before the UIAB, Mr. Grey testified that Ms. Oney kindly asked Mr. Calixte to clean the floor;<sup>13</sup> that Mr. Calixte then got into Ms. Oney's face and was talking loudly;<sup>14</sup> and that he was the one who eventually cleaned the floor.<sup>15</sup> Although Mr. Calixte testified differently as to the events that led to his dismissal,

9. For the foregoing reasons, the decision of the UIAB is *affirmed*. **IT IS SO ORDERED**.

there was substantial evidence to support the UIAB's decision.

/s/ James T. Vaughn, Jr.
President Judge

cc: Prothonotary
Order Distribution
File

<sup>&</sup>lt;sup>12</sup> *Id.* 13:11-13.

<sup>&</sup>lt;sup>13</sup> *Id.* 14:18-20.

<sup>&</sup>lt;sup>14</sup> *Id.* 14:22-24.

<sup>&</sup>lt;sup>15</sup> *Id.* 15:20-25.