

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR THE NEW CASTLE COUNTY

CAROL STEWART,	)	
	)	
Appellant,	)	
	)	
v.	)	C.A. No. 07A-10-003 JRS
	)	
CONNECTIONS,	)	
and UNEMPLOYMENT INSURANCE	)	
APPEAL BOARD,	)	
	)	
Appellees.	)	

Date Submitted: April 22, 2008

Date Decided: July 9, 2008

*Upon Appeal from the
Unemployment Insurance Appeal Board.*

AFFIRMED

ORDER

This 9th day of July 2008, upon consideration of the appeal of Carol Stewart (“Ms. Stewart”), from a decision of the Unemployment Insurance Appeal Board (the “Board”) denying her claim for unemployment benefits against her former employer, Connections (“Connections”),¹ it appears to the Court that:

¹ Neither the pleadings nor the record offer any indication as to the legal status of Connections. The Court’s independent search of the worldwide web reveals that “Connections” is actually Connections CSP, Inc.

1. Ms. Stewart was employed as a staff member at the Chadwick Supervised Apartments, a program run by Connections, from January 16, 2003 until June 5, 2007, when her employment was terminated.² On June 5, 2007, Ms. Stewart's supervisor, Sara Gundel ("Ms. Gundel"), approached Ms. Stewart with a performance write up regarding her failure properly to complete Medicine Administration Reports ("MARs") for residents to whom she had administered medication.³ Ms. Stewart had been written up for similar infractions in the past.⁴ Ms. Gundel reports that upon presenting Ms. Stewart with the write up Ms. Stewart became irate and told Ms. Gundel that she was "full of shit," "wait till (sic) they find something on you, I'm gonna (sic) get something on you," and "fuck this" (repeatedly).⁵ Ms. Gundel then sent Ms. Stewart home for the remainder of the day, but told her to report the following morning at 10:00 a.m. for a meeting with Ms. Gundel and her supervisor.⁶

2. On June 6, 2007, the following morning, Ms. Stewart failed to show up at the scheduled meeting.⁷ Later that same day Ms. Stewart spoke with Ms. Gundel who directed her to contact Human Resources. Ms. Stewart claims to have called

²Docket Item ("D.I.") 5, at 23.

³ D.I..5, at 97.

⁴D.I.5, at 8,9,11,13.

⁵D.I.5 at 6.

⁶D.I.5 at 98.

⁷*Id.*

Human Resources but received no answer. She is unsure whether she left a message. At some later point, Ms. Stewart spoke with Human Resources and was informed that her employment with Connections had been terminated.⁸

3. Ms. Stewart filed for unemployment compensation with the Delaware Department of Labor (“DOL”) on June 10, 2007.⁹ On July 3, 2007, a Claims Deputy for the DOL determined that Connections terminated Ms. Stewart for misconduct in connection with her work constituting just cause.¹⁰ Pursuant to 19 *Del. C.* § 3314(2), this finding disqualified Ms. Stewart from receiving unemployment compensation.¹¹

4. On July 6, 2007, Ms. Stewart appealed the Claims Deputy’s decision to the Appeals Referee. After a hearing, the Appeals Referee issued her decision on August 17, 2007, reversing the Claims Deputy’s determination that Ms. Stewart was terminated for just cause. The Referee explained in her decision that the employer failed to establish “willful and wanton misconduct” on Ms. Stewart’s part.¹² The

⁸D.I. at 98.

⁹D.I. 5 at 23.

¹⁰D.I. 5 at 23,24.

¹¹19 *Del. C.* §3314(2) states that:

An individual shall be disqualified for benefits: For the week in which the individual was discharged from the individual's work for just cause in connection with the individual's work and for each week thereafter until the individual has been employed each of 4 subsequent weeks...

¹²D.I.5 at 29.

Referee reasoned that Connections had failed to meet its evidentiary burden because the evidence presented at the hearing regarding the incident leading to Ms. Stewart's termination was hearsay.¹³ As a result of the insufficient evidence, the Appeals Referee concluded that Ms. Ms. Stewart was entitled to unemployment compensation.¹⁴

5. On August 22, 2007, Connections appealed the Referee's decision to the Board and a hearing was held on September 19, 2007.¹⁵ The Board issued its decision that same day, reversing the Referee's decision upon concluding that Ms. Stewart's actions gave Connections just cause for termination because the misconduct was willful and wanton.¹⁶ The Board determined that Ms. Grundel's firsthand account of the events leading to termination was credible and demonstrated Ms. Stewart had engaged in an act of insubordination. This conduct gave Connections just cause to terminate her employment.¹⁷ The Board relied upon the definition of insubordination as set forth in Delaware case law. Courts have defined insubordination as "the refusal to obey the order of a superior which the superior is entitled to give and have

¹³*Id.*

¹⁴*Id.*

¹⁵D.I.5 at 96.

¹⁶D.I.5 at 99.

¹⁷D.I.5 at 98.

obeyed.”¹⁸ In making its determination, the Board applied this definition of insubordination to the incident in question and found that Ms. Gundel, as Ms. Stewart’s superior, was entitled to give the order that she attend a meeting the morning following her aggressive outburst.¹⁹ The Board found Ms. Stewart’s failure to obey this direction to be a clear case of insubordination, resulting in her termination for just cause.²⁰

6. On November 27, 2007, Ms. Stewart filed a *pro se* appeal of the Board’s decision with this Court.²¹ She filed her one page Opening Brief on January 22, 2008. No response was filed by the Board or Connections.²²

7. This Court repeatedly has emphasized the limited extent of its appellate review of administrative determinations. The Court’s review is confined to ensuring that the hearing officer made no errors of law and determining whether “substantial evidence” supports the hearing officer’s factual findings.²³ Questions of law that arise

¹⁸D.I.5 at 98.

¹⁹D.I.5 at 99.

²⁰*Id.*

²¹D.I.8 at 1.

²² The Court sent a delinquency notice to the Appellees on March 18, 2008 but, unfortunately, this did not prompt a response. The fact that the Court has decided that it must rule in favor of the Appellees should not be mistaken as a sign that the Court has condoned the Appellees’ delinquency, or that it will not hold such delinquencies against future Appellees where appropriate. Here, the appropriate outcome is so patently obvious that the Court has no choice but to affirm.

²³*Canyon Const. v. Williams*, 2003 WL 1387137, at *1 (Del. Super. Ct. Mar. 5, 2003); *Hall v. Rollins Leasing*, 1996 WL 659476, at *2-3 (Del. Super. Ct. Oct. 4, 1996).

from the hearing officer's decision are subject to *de novo* review, pursuant to Superior Court Civil Rule 3(c), which requires the Court to determine whether the hearing officer erred in formulating or applying legal precepts.²⁴ Substantial evidence means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."²⁵ It is "more than a scintilla but less than a preponderance of the evidence."²⁶ The "substantial evidence" standard of review contemplates a significant degree of deference to the hearing officer's factual conclusions and its application of those conclusions to the appropriate legal standards.²⁷ In its review, the Court will consider the record in the light most favorable to the prevailing party below.²⁸

8. Pursuant to 19 *Del. C.* § 3314, an employee is disqualified from receiving unemployment compensation if she is discharged 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 of conduct."²⁹ "Willful and wanton conduct is that which is evidenced by either conscious action, or reckless indifference leading to a deviation from established and acceptable workplace

²⁴*See Anchor Motor Freight v. Ciabattone*, 716 A.2d 154, 156 (Del. 1998); *Hudson v. State Farm Mut. Ins. Co.*, 569 A.2d 1168, 1170 (Del. 1990).

²⁵*Breeding v. Contractors-One, Inc.*, 549 A.2d 1102, 1104 (Del. 1998).

²⁶*Id.*

²⁷*Hall*, 1996 WL 659476, at *2 (citing DEL. CODE ANN. tit. 29, § 10142(d)).

²⁸*General Motors Corp. v. Guy*, 1991 WL 190491, at *3 (Del.Super.Ct. Aug. 16, 1991).

²⁹*Avon Products, Inc. v. Wilson*, 513 A.2d 1315 (Del. 1986).

performance.”³⁰ There is no requirement that the conduct be performed with bad motive or malice.³¹

9. The record before the Board consisted of the testimony of both Ms. Stewart and Ms. Gundel, the superior at whom Ms. Stewart’s obscene tirade was directed, and the evidentiary record of Ms. Stewart’s history of write ups for unsatisfactory job performance.³² The Board, as fact finder, found Ms. Gundel’s testimony to be more credible than that of Ms. Ms. Stewart, which it described as “muddled and barely coherent.”³³ Ms. Gundel’s testimony and the evidentiary record indicate that Ms. Stewart was directed to appear at 10:00 a.m. on the morning of June 6, 2007, to meet with Ms. Gundel and her supervisor so that she could answer for her insubordination the day before. Ms. Stewart’s failure to appear amounts to disregard of an order that a superior is entitled to give and have obeyed, an insubordinate act. There was substantial evidence in the record to support the Board’s finding that Connections had discharged Ms. Stewart for just cause. Additionally, the record indicates that Ms. Stewart was warned on several occasions that her failure to comport

³⁰*MRPC Financial Management, LLC v. Carter*, 2003 WL 21517977, *4 (Del. Super. 2003).

³¹*Coleman v. Department of Labor*, 288 A.2d 285, 288 (Del. Super. 1972).

³²D.I.5 at 99.

³³*Id.*

with the job standards set forth by Connections could result in the termination of her employment.³⁴

10. 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.³⁵ Accordingly, the decision of the Board denying Ms. Stewart unemployment compensation must be **AFFIRMED**.

IT IS SO ORDERED.

Judge Joseph R. Slights, III

Original to Prothonotary

cc: Ms. Carol Stewart

³⁴D.I.5 at 76.

³⁵ The Court is satisfied that MCC's proffered "just cause" for terminating Ms. Husfelt satisfies the "heightened scrutiny" called for in *Vann v. Town of Cheswold*, 945 A.2d 1118, 1122 (Del. 2008).