

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY

ALMINIA CHANDLER, :  
 : C.A. No. K14A-03-002 WLW  
 Appellant, :  
 :  
 v. :  
 :  
 UNEMPLOYMENT INSURANCE :  
 APPEALS BOARD, :  
 :  
 Appellee. :

Submitted: June 20, 2014  
Decided: September 9, 2014

**ORDER**

Upon an Appeal of the Decision of the  
Unemployment Insurance Appeals Board.  
*Affirmed.*

Alminia Chandler, *pro se*

Catherine Damavandi, Esquire, Department of Justice, Wilmington, Delaware;  
attorney for the UIAB.

WITHAM, R.J.

## **INTRODUCTION**

Before the Court is the *pro se* appeal of Appellant Alminia Chandler (hereinafter “Appellant”) from the decision of the Unemployment Insurance Appeals Board (hereinafter “the Board” or “the UIAB”) disqualifying Appellant from receiving unemployment benefits. Appellant was disqualified from receiving unemployment benefits because she voluntarily quit working without good cause after being suspended. Because Appellant voluntarily terminated employment without good cause, the Board’s decision is **AFFIRMED**.

## **BACKGROUND**

Appellant filed a claim for unemployment benefits on October 8, 2013. Appellant was employed as a Certified Nursing Assistant (hereinafter “CNA”) by Green Valley SNF, Inc. d/b/a Pinnacle (hereinafter “Pinnacle” or “Employer”). Appellant began work at Pinnacle on January 13, 2013. Appellant testified that problems began when another CNA began arguing with her one day at work. The following day the Director of Nursing requested Appellant explain details of the incident. Appellant testified she felt the Director of Nursing was interrogating and blaming Appellant for the entire altercation with the CNA. On September 21, 2013, Appellant noticed that her assignment had been changed, and when she inquired as to why, another CNA stated it was because Appellant was suspended. Two days later, on September 23, 2013, the Director of Nursing informed Appellant that she was suspended due to a customer complaint, but did not divulge specific details regarding the complaint.

Appellant testified that she contacted the corporate office inquiring about the specifics of the complaint as well as who made it, and spoke with an employee named Stella, who did not provide her with details of the suspension. Appellant testified she also contacted Human Resources, but that she was unable to get in touch with anyone from that office. The next day, September 24, 2013, Appellant resigned effective October 8, 2013.

An initial hearing was scheduled for November 21, 2013, however Appellant failed to appear for the hearing and the case was dismissed. Appellant filed a timely appeal to the board, and the case was remanded back to a referee for a hearing scheduled for November 26, 2013.

Appellant testified that she had yet to receive a response from any employees regarding her suspension. She testified that she had asked fellow employees who previously worked the same shifts as her if they were familiar with any complaints logged against Appellant. Because Appellant did not receive any details as to a complaint, and because the fellow CNA she asked was not aware of any complaints about her, she contacted Human Resources. Unfortunately, the human resources representative was out of the office on personal business, and Appellant was not able to speak with a representative until a later date. Appellant states that because of these circumstances she believes the Employer engaged in making false accusations and harassed her. Appellant testified that she did not want to jeopardize losing her license due to a suspension, so she instead resigned the day after receiving notification of her suspension. She provided her employer with a letter dated September 24, 2013,

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providing notice that her last day would be October 8, 2013, and stated her reason for leaving was “due to false accusation and harassment which took place on several occasions.”

Appellant testified that she attempted to get in touch with Human Resources several times, but did not receive a response until one week after her resignation letter was submitted. Human Resources corroborated Appellant’s account of her communication attempts, and testified that she was out of the office when Appellant gave her two weeks notice and did not return until a week later. During the conversation between Appellant and Human Resources, the human resources representative suggested to Appellant that she contact the corporate compliance office to file a complaint. The human resources representative gave Appellant the number to the corporate compliance office, even though she felt there was not much that could be done since Appellant had already resigned.

The Claims Referee determined that according to 19 *Del. C.* § 3314(1), Appellant was not entitled to unemployment benefits because she quit without good cause attributable to her work. Because Appellant did not allow for any time for anyone to respond to her resignation or complaint regarding a suspension, the Claims Referee found that the Appellant did not exhaust her administrative remedies prior to quitting and is not entitled to unemployment benefits.

Appellant appealed the decision of the Appeals Referee to the Board. On February 19, 2014 a hearing was held before the Board. The Board affirmed the Appeals referee in that Appellant failed to give good cause for her resignation

according to 19 *Del. C.* § 3314(1).

### **STANDARD OF REVIEW**

As with appeals from all administrative agencies, when a decision of the UIAB is appealed, this Court's scope of review is limited to "determining whether the Board's conclusions are supported by substantial evidence and free from legal error."<sup>1</sup> Substantial evidence means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."<sup>2</sup> This Court will not weigh the evidence, determine questions of credibility, or make its own factual findings.<sup>3</sup> Questions of law are reviewed *de novo* "to determine whether the Board erred in formulating or applying legal concepts."<sup>4</sup> If there is substantial evidence and no error of law, the Board's decision will be affirmed, unless the Board committed an abuse of discretion.<sup>5</sup> An abuse of discretion occurs when the Board "acts arbitrarily or capriciously, or exceeds the bounds of reason in view of the circumstances and has

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<sup>1</sup> *Nardi v. Lewis*, 2000 WL 303147, at \*2 (Del. Super. Ct. Jan. 26, 2000) (citations omitted).

<sup>2</sup> *Olney v. Cooch*, 425 A.2d 610, 614 (Del. 1981) (quoting *Consolo v. Fed. Mar. Comm'n*, 383 U.S. 607, 620 (1966)).

<sup>3</sup> *Hopkins Const., Inc. v. Unemployment Ins. App. Bd.*, 1998 WL 960713, at \*2 (Del. Super. Ct. Dec. 17, 1998) (citing *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66-67 (Del. 1965)).

<sup>4</sup> *PAL of Wilmington v. Graham*, 2008 WL 2582986, at \*4 (Del. Super. Ct. June 18, 2008) (citing *Nardi*, 2000 WL 303147, at \*2).

<sup>5</sup> See *PAL of Wilmington*, 2008 WL 2582986, at \*4 (citing *Funk v. Unemployment Ins. App. Bd.*, 591 A.2d 222, 225 (Del. 1991)); *Sikorski v. Boscov's Dept. Store*, 1995 WL 656831, at \*1 (Del. Super. Ct. Sept. 22, 1995) (citations omitted).

ignored recognized rules of law or practice so as to produce injustice.”<sup>6</sup>

### **DISCUSSION**

Pursuant to 19 *Del. C.* § 3314(1), an individual is disqualified from the receipt of unemployment benefits if “the individual left work voluntarily without good cause attributable to such work. . . .”<sup>7</sup> An employee voluntarily quits their employment when they leave on their own accord as opposed to being discharged, and have “a conscious intention to leave or terminate the employment.”<sup>8</sup> The burden is on the employee to establish good cause attributable to the employment that justifies voluntarily leaving work.<sup>9</sup> Good cause is defined as “such cause as would justify one in voluntarily leaving the ranks of the employed and joining the ranks of the unemployed.”<sup>10</sup> Further, the employee “must first exhaust all reasonable alternatives to resolve the issues underlying [the] employment before voluntarily terminating employment.”<sup>11</sup> This exhaustion requirement is satisfied when the employee at least notifies the employer of the problem and requests a solution, or otherwise brings the

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<sup>6</sup> *PAL of Wilmington*, 2008 WL 2582986, at \*1 (citations and internal quotations omitted).

<sup>7</sup> 19 *Del. C.* § 3314(1).

<sup>8</sup> *Gsell v. Unclaimed Freight*, 1995 WL 339026, at \*2 (Del. Super. May 3, 1995) (citations omitted).

<sup>9</sup> *Hopkins Const., Inc.*, 1998 WL 960713, at \*3 (citation omitted).

<sup>10</sup> *Sandefur*, 1993 WL 389217, at \*4 (citing *O’Neal’s Bus Serv., Inc. v. Employment Secur. Comm’n*, 269 A.2d 247, 249 (Del. Super. 1970)).

<sup>11</sup> *Thompson v. Christiana Care Health Sys.*, 25 A.3d 778, 784 (Del. 2011).

problem to the attention of someone with the authority resolve the problem.<sup>12</sup> Further, an employer should be given a sufficient amount of time in order to investigate and resolve the issue.<sup>13</sup>

The Board expressly found that because Appellant quit her employment prior to contacting any Human Resources personnel or filing a complaint, she left her employment without good cause attributable to employment. Appellant stated she attempted to contact various employees in order to understand the specifics of her suspension. Appellant stated she spoke with an employee from the corporate office but was not provided with any details regarding her suspension. She also testified that she called Human Resources several times but did not receive a return phone call until one week later. The day after her attempted communication with Human Resources, Appellant submitted her resignation. Further, Appellant stated she preferred to quit her job than suffer the impact a suspension might have on her license. Appellant did not exhaust the options available to resolve her issues before voluntarily terminating her employment. She allowed for a mere twenty-four hours between the time she called Human Resources and the time she handed in her two week notice for the issue to be resolved. Appellant testified that she believed her employer could resolve her suspension issue before her last day of work, October 8, 2013. However, Appellant had already resigned on September 24, 2013. This line of

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<sup>12</sup> *Id.* (citing *Calvert v. State, Dept. of Labor & Workforce Development*, 251 P.3d 990, 1001-1002 (Alaska 2011)).

<sup>13</sup> *Thompson v. Christiana Care Health Sys.*, 25 A.3d 778, 784 (Del. 2011).

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reasoning makes clear that Appellant terminated her employment voluntarily and without good cause.

It is regrettable that Appellant did not give a reasonable length of time to Employer to respond to her inquiry to ascertain the specifics of her suspension.

Appellant failed to carry her burden to establish good cause for leaving her employment, exhaust her reasonable alternatives to resolving the issues, and did not provide her employer with enough time to even investigate the issue. Thus, the Board's conclusion that Appellant is disqualified from receiving benefits under § 3314(1) is supported by substantial evidence and free from legal error.

**CONCLUSION**

In light of the substantial evidence in support of the UIAB's decision, as well as the absence of any error of law, the decision of the UIAB must be, and is, hereby **AFFIRMED.**

IT IS SO ORDERED.

/s/ William L. Witham, Jr.  
Resident Judge

WLW/dmh