

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

1 The Circle, Suite 2
GEORGETOWN, DE 19947

August 5, 2015

Dennis C. Stone
114 Seaford Meadows
Seaford, DE 19973

***RE: Dennis Stone v. Unemployment Insurance Appeal Board
C.A. No. 15A-01-001 ESB***

Date Submitted: July 8, 2015

Dear Mr. Stone:

This is my decision on your appeal of the Unemployment Insurance Appeal Board's denial of your claim for unemployment benefits. You filed a claim for unemployment benefits after you lost your custodial-type job at the Delaware Technical and Community College because you suffered a stroke and were unable to work. The record in this case indicates that you could not work at the time you left Del Tech and that you have an ongoing medical condition that prevents you from working. Nevertheless, you have indicated that you are ready, willing, and able to do sedentary-type work. The Claims Deputy, Appeals Referee and Board all found that you were not available for work and not able to work, thus disqualifying you from

receiving unemployment benefits. You then filed an appeal of the Board's decision with this Court.

STANDARD OF REVIEW

The Supreme Court and this Court repeatedly have emphasized the limited appellate review of the factual findings of an administrative agency. The Court must determine whether the Board's findings and conclusions are free from legal error and supported by substantial evidence in the record.¹ Substantial evidence means 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 It merely determines if the evidence is legally adequate to support the agency's factual findings.⁴ Absent an error of law, the Board's decision will not be disturbed where there is substantial evidence to support its conclusions.⁵

DISCUSSION

¹ *Unemployment Insurance Appeal Board v. Martin*, 431 A.2d 1265, 1266 (Del. 1981).

² *Oceanport Ind. v. Wilmington Stevedores*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del.1986), *app. disp.*, 515 A.2d 397 (Del. 1986)(TABLE).

³ *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

⁴ 29 *Del.C.* § 10142(d).

⁵ *Dallachiesa v. General Motors Corp.*, 140 A.2d 137 (Del. Super. 1958).

In order to receive unemployment benefits, a claimant must be unemployed and meet the statutory eligibility requirements.⁶ An unemployed individual is only eligible for benefits if they are able and available for work.⁷ An employee who involuntarily leaves work due to illness may become eligible for benefits upon a showing that they are able and available to work.⁸ However, a claimant must produce a doctor's certificate to establish availability.⁹ The limitation ends once the individual becomes able to work and available for work as determined by a doctor's certificate.¹⁰

The terms available to work and able to work, "though complementary, are not synonymous." Both conditions must be met for the receipt of benefits.¹¹ Thus, a person is disqualified from receiving unemployment insurance benefits if that person's physical condition prevents that person from performing his or her job functions.¹² Unemployment insurance is not health insurance, and its benefits are not

⁶ *Turkey's Inc., v. Peterson*, 2002 WL 977190 (Del. Super. May 13, 2002).

⁷ *See* 19 *Del.C.* § 3315(3).

⁸ 19 *Del.C.* § 3314(1).

⁹ *Id.*

¹⁰ 19 *Del.C.* § 3315(8).

¹¹ *Petty v. University of Delaware*, 450 A.2d 392, 395 (Del. 1982).

¹² *Id.* at 396.

available to those unable to or unavailable for work due to medical reasons.¹³ A claimant bears the burden of establishing his entitlement to receive unemployment compensation.

Thus, you are eligible for unemployment benefits only if you are able and available to work. Your doctor issued a note preventing you from performing any type of work on a full-time basis. As such, the record established that you are not “able” and “available” to work.

CONCLUSION

The decision of the Unemployment Insurance Appeal Board is **AFFIRMED** because it is in accordance with the applicable law and supported by substantial evidence in the record.

IT IS SO ORDERED.

Very truly yours,

/s/ E. Scott Bradley

E. Scott Bradley

ESB/sal
cc: Paige Schmittinger, Esquire
UIAB
Prothonotary

¹³ *Michelle A. Sinclair, Inc., v. Riley*, 2004 WL 1731140, at *2 (Del. Super. July 30, 2004).