

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

SAEED KAZMI,)
) C.A. No. K11A-09-006 JTV
 Appellant,)
)
 v.)
)
 UNEMPLOYMENT INSURANCE)
 APPEAL BOARD,)
)
 Appellee.)

Submitted: March 7, 2012

Decided: June 22, 2012

Saeed Kazmi, *Pro Se*.

Caroline Lee Cross, Esq, Department of Justice, Wilmington, Delaware. Attorney for Appellee.

*Upon Consideration of Appellant's
Appeal From Decision of the
Unemployment Insurance Appeals Board*

AFFIRMED

VAUGHN, President Judge

Saeed Kazmi v. UAIB
C.A. No. K11A-09-006 JTV
June 22, 2012

ORDER

Upon consideration of the record of the case, it appears that:

1. The appellant Saeed Kazmi (“the claimant”) has filed this appeal from the Unemployment Insurance Appeal Board’s (“Board”) decision denying unemployment benefits. The Board affirmed the decision of the Appeals Referee denying the claimant unemployment benefits. The Appeals Referee had affirmed the Claims Deputy’s decision that held that the claimant voluntarily left his work without good cause. Pursuant to 19 *Del. C.* § 3314(1) the Board found that the claimant was disqualified from the receipt of benefits.

2. The Appeals Referee summarized the central facts as follows:

This tribunal finds the claimant was employed as a driver by Domino’s for 3-4 days at the end of January 2010. He was involved in an automobile accident and damaged his car. The next day the claimant called his manager at Domino’s and advised him that he could not work because he did not have a car. The manager told him to come back when he got his car fixed. The claimant got his car fixed and went back to Domino’s in February of 2010 and was told that the position had been filled.

In addition, the Appeals Referee summarized the following evidence: before he worked at Domino’s, the claimant worked for Nino’s; he was fired from Nino’s on January 17, 2010; he filed for benefits in August of 2010; Domino’s was the last place he worked before filing for benefits and he was approved; he received an exhaustion letter on February 19, 2011; he attempted to file an extension on February 22, 2011 but was told he did not qualify; he feels that he is being discriminated

Saeed Kazmi v. UAIB

C.A. No. K11A-09-006 JTV

June 22, 2012

against and that he should have received a denial letter. Ultimately, the Appeals Referee found that the claimant left his job for personal reasons, because he no longer had transportation. Therefore, the Appeals Referee concluded it was clear that the claimant voluntarily quit without good cause.

3. In this appeal the claimant contends that the Board erred in not considering all of the evidence. First, he contends it was a mistake for the Division of Unemployment Insurance to create a new case file regarding his benefits in relation to Dominos. He worked at Nino's Pizza for a full year before he was fired. He alleges that he applied and was approved for six months of benefits. In February 2011, when he went to extend his benefits, the division started a new case regarding his employment with Dominos.

4. The limited function of this Court in reviewing an appeal from the Board is to determine whether the Board's decision is supported by substantial evidence and free from legal error.¹ The appellate court does not weigh the evidence, determine questions of credibility of the witnesses, the weight to be given to their testimony, and the inferences to be drawn from them.² The court merely determines if the evidence is legally adequate to support the agency's factual findings.³

5. The Board based its decision on the facts of the case and 19 *Del. C.* §

¹ *Oceanport Indus., Inc. v. Wilmington Stevedores, Inc.*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del. Super. 1986).

² *Behr v. Unemployment Ins. Appeal Bd.*, 1995 WL 109026, at *1 (Del. Super. Feb. 7 1995).

³ 29 *Del. C.* § 10142(d).

Saeed Kazmi v. UAIB

C.A. No. K11A-09-006 JTV

June 22, 2012

3314.⁴ Pursuant to section 3314, unemployment benefits are not available for an individual who leaves work “voluntarily without good cause attributable to such work...”⁵ “The phrase ‘voluntary quitting’ means leaving on one’s own motion, as opposed to being discharged.”⁶ This is only excused where good cause is shown, and the burden is on the claimant below to prove.⁷ Good cause is “such cause as would justify one in voluntarily leaving the ranks of the employed and joining the ranks of the unemployed.”⁸ Circumstances in which good cause exist include where the employer changes work hours or there is a substantial deviation in work conditions.⁹

6. Those circumstances do not exist here. There is no good cause to excuse

⁴ 19 *Del. C.* § 3314 states:

An individual shall be disqualified for benefits:

(1) For the week in which the individual left work voluntarily without good cause attributable to such work and for each week thereafter until the individual has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned wages in covered employment equal to not less than 4 times the weekly benefit amount.

⁵ 19 *Del. C.* § 3314(1).

⁶ *Gisell v. Unclaimed Freight*, 1995 WL 339026, at *3 (Del. Super. May 3, 1995).

⁷ *Longobardi v. Unemployment Insurance Appeal Bd.*, 287 A.2d 690, 692 (Del. Super. 1971).

⁸ *Thompson v. Christiana Care Health Sys.*, 25 A.3d 778, 782 (Del. 2011) (citing *O’Neal’s Bus Serv. v. Employment Secur. Comm’n.* 269 A.2d 247, 249 (Del. Super. 1970)).

⁹ *Hopkins Constr. v. Unemployment Insurance Appeal Bd.*, 1998 WL 960713, at *3 (Del. Super. Dec. 17, 1998).

Saeed Kazmi v. UAIB

C.A. No. K11A-09-006 JTV

June 22, 2012

the claimant's voluntarily leaving his job. The claimant voluntarily left due to the issues he was having with transportation. His argument that he should receive unemployment benefits for his employment at Nino's pizza, before Domino's pizza is misguided. The issue is whether he is entitled to unemployment benefits from his last employer, which was Domino's. There is substantial evidence that supports the Board's decision that the claimant voluntarily left his position and is not entitled to unemployment benefits pursuant to 19 *Del. C.* §3314(1).

Therefore, the decision of the Board is ***affirmed***.

IT IS SO ORDERED.

/s/ James T. Vaughn, Jr.

President Judge

oc: Prothonotary
cc: Order Distribution
File