

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

RANDOLPH F. WATSON,	:	
	:	C.A. No. K11A-12-001 WLW
Appellant,	:	
	:	
v.	:	
	:	
UNEMPLOYMENT INSURANCE	:	
APPEAL BOARD,	:	
	:	
Appellee.	:	

Submitted: May 16, 2012
Decided: August 27, 2012

ORDER

Upon an Appeal from a Decision of the
Unemployment Insurance Appeal Board.
Affirmed.

Mr. Randolph Watson, *pro se*.

Caroline Lee Cross, Esquire, Department of Justice, Wilmington, Delaware; attorney
for the Appellee.

WITHAM, R.J.

FACTS AND PROCEDURAL HISTORY

_____ Randolph F. Watson (“Appellant”) filed an internet claim for unemployment on February 7, 2010. Based on that claim, he received unemployment benefits for 17 weeks between February 13, 2010 and January 1, 2011. On January 18, 2011, the Unemployment Insurance Quality Control Unit (“Unit”) randomly audited Appellant’s claim. The Unit found that Appellant had been receiving a monthly pension check from his previous employer, Johnson Controls. Based on this information, the Unit issued a fraud disqualification determination on March 1, 2011, finding that Appellant received overpayments and had committed fraud. Appellant filed a timely appeal on March 7, 2011, and a hearing was held before the Claims Deputy on March 31, 2011. On June 1, 2011, the Claims Deputy found that no fraud had occurred, but Appellant was still liable for overpayment of benefits. Appellant filed a timely appeal of the Claims Deputy’s decision on June 9, 2011. A hearing was held on August 16, 2011. The Appeals Referee affirmed the decision below in a decision mailed out on August 17, 2011. On August 23, 2011, Appellant filed a timely appeal to the Unemployment Insurance Appeal Board (“Board”). On November 1, 2011, the Board held a hearing on the appeal, and issued an opinion affirming the Appeals Referee’s decision mailed on November 28, 2011. On December 6, 2011, Appellant filed a timely appeal to this Court pursuant to 19 *Del. C.* § 3323, and he filed his opening brief in a timely manner on February 29, 2012. On May 14, 2012, the Court received a letter from counsel for the Board informing the Court that the Board did not intend to file an answering brief, citing *Wilmington*

*Trust Co. v. Barron.*¹ This is the Court's decision on this matter.

Standard of Review

The reviewing court serves to determine whether substantial evidence supports the Board's decision.² Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a particular conclusion.³ It is more than a scintilla and less than a preponderance.⁴ In addition, the Court must determine whether the Board's decision is free from legal error.⁵ Superior Court does not hold responsibility as a trier of fact with authority to weigh evidence, determine credibility, or to make findings of fact and conclusions.⁶

Nineteen *Del. C.* §3325 provides, in pertinent part:

Any person who has received any sum as benefits under this chapter to which it is finally determined that the person was not entitled shall be liable to repay in cash said overpayment, to the Department for the Unemployment Compensation Fund, or to have such sum deducted from

¹470 A.2d 257, 261 (Del. 1983) (“A judge has no cognizable personal interest before a higher tribunal in seeking to have his rulings sustained.”).

²*Kondzielawa v. Ferry, Joseph & Pearce, P.A.*, 2003 WL 21350538, at *3 (Del. Super. June 6, 2003).

³*Parks v. Wal-Mart*, 2004 WL 1427016, at *2 (Del. Super. June 24, 2004).

⁴*City of Wilmington v. Clark*, 1991 WL 53441, at *2 (Del. Super. Mar. 20, 1991) (citing *Olney v. Cooch*, 425 A.2d 610, 614 (Del. 1981)).

⁵*PAL of Wilmington v. Graham*, 2008 WL 2582986, at *4 (Del. Super. June 18, 2008) (citing *Unemployment Ins. Appeal Bd. v. Martin*, 431 A.2d 1265 (Del. 1981)).

⁶*Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

future benefits payable to the person under this chapter. The person shall be so liable regardless of whether such sum was received through fraud or mistake, or whether that person was legally awarded the payment of benefits at the time but on appeal was subsequently found not to be entitled thereto.

DISCUSSION

As the ground for his appeal, Appellant makes a fairness argument that the oversight with regard to his pension was the Department of Labor's mistake, and he should not be held accountable for a mistake made by the Department of Labor. In Appellant's opening brief, he argues further:

I know [the Court's] decision will be based on article 19 Del. C. 3325, which allows the division to make mistakes and not be held accountable, but a person in [this] situation is not protected at all. It gives me no chance to win an appeal, but with the new information being brought forth⁷ I feel this decision should be overruled. The article 19 Del. C. 3325 does not allow for proper justice.

In a brief, one and a half page decision, the Board found that Appellant presented no new evidence at the hearing and "[b]ased on the record of this case and for the reasons given by the Referee, the Board finds that the Claimant is liable to the Department of Labor for an overpayment of unemployment benefits."⁸ Since the Board grounded its decision in the reasoning of the Appeals Referee, the Court looks

⁷It is unclear to the Court what this new information is as the Board stated that Appellant provided no new evidence or testimony at his hearing.

⁸*In re Watson*, No. 60768357, at 2 (Del. U.I.A.B. Nov. 28, 2011).

to that decision for substantial evidence and for any legal error.

The Appeals Referee's decision cites to the applicable statute, 19 *Del. C.* § 3325, and correctly emphasizes that a claimant is liable regardless of whether the sum was received through fraud or mistake, or whether he or she was legally awarded payment but was subsequently determined to not be entitled thereto. The Appeals Referee then applied the facts to the law:

During a Quality Control Unit review, it was determined that the Claimant indicated, pursuant to his claim for benefits, that he was not receiving a pension from Johnson Controls. The Claimant is liable for an overpayment of benefits due to the fact that he failed to report pension earnings while he collected unemployment benefits.

In affirming, the Board did differ with the Appeals Referee on one fact that makes a distinction without a difference as far as the law is concerned: the Department of Labor overlooked the fact that Appellant was receiving a pension.⁹ The Court notes with some concern that the Appeals Referee, in referring to the pension, found that "no one followed up or inquired as to its monetary value, so, he did not report it when filing." While the claimant is required to complete an application correctly, follow up is necessary by the Division of Unemployment Insurance of the Delaware Department of Labor to avoid his unfortunate result. In any case, the decision of the Board was supported by substantial evidence and was free from legal error. Although the Court sympathizes with Appellant's situation, under 19 *Del. C.* § 3325, it makes no difference who is at fault for an overpayment.

⁹*Id.*

Randolph F. Watson v. UIAB
C.A. No. K11A-12-001 WLW
August 27, 2012

CONCLUSION

The decision of the Unemployment Insurance Appeal Board is hereby ***affirmed.***

IT IS SO ORDERED.

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

WLW/dmh
oc: Prothonotary
xc: Mr. Randolph F. Watson, *pro se*
Caroline Lee Cross, Esquire