

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

WILLIAM CHRISTENSEN,

:

:

C.A. No: 13A-03-002 (RBY)

:

_____ **Appellant,**

:

v.

:

:

KENT COUNTY MOTOR SALES,

:

:

Appellee.

:

*Submitted: August 1, 2013
Decided: November 1, 2013*

*Upon Consideration of Appellant's Appeal from
the Unemployment Insurance Appeal Board*
AFFIRMED

ORDER

William Christensen, *Pro se.*

James Wakley, Esq., Deputy Attorney General, Department of Justice, Wilmington,
Delaware for Appellee.

Young, J.

SUMMARY

On February 12, 2013, the Unemployment Insurance Appeal Board (“Board”) reversed the decision of the Appeals Referee, which found that William Christensen (“Claimant” or “Appellant”) was discharged from his work without just cause in connection with his work. Appellant appealed the Board’s decision. Because the record presents sufficient evidence to support the Board’s finding that Appellant’s conduct at Kent County Motor Sales (“Employer”) amounted to gross insubordination, just cause for Employer’s termination of benefits was established. The Board’s February 2013 decision is, therefore, **AFFIRMED**.

FACTS

Appellant was employed as an automobile detailer by Employer from October 27, 2011 through September 26, 2012. John Whitby, Employer’s witness, testified to the following: On September 26, 2012, Claimant was assigned to detail a vehicle. He told Employer Representative, Wayne Adkins (“Adkins”), that he needed more than the five hours allotted. Claimant refused to complete the job without more time, which action brought about his termination. Claimant was allotted five hours to complete the job. Partway through the job, he stopped working, requesting additional pay.

Adkins testified that, after the allotted time, Claimant said that the time was up, and he was not going to do anything else. Adkins told Claimant to leave, though he does not recall having told the Claimant to talk to him if the job went over the allotted time. Hence, Claimant did not receive any express warnings from Employer. The parties disputed what contingency plan was in place in case the

vehicle took more time than allotted.

STANDARD OF REVIEW

For administrative board appeals, this Court is limited to reviewing whether the Board's decision is supported by substantial evidence and free from legal errors.¹ Substantial evidence is that which "a reasonable mind might accept as adequate to support a conclusion."² It is "more than a scintilla, but less than preponderance of the evidence."³ An abuse of discretion will be found if the Board "acts arbitrarily or capaciously...exceeds the bounds of reason in view of the circumstances and has ignored recognized rules of law or practice so as to produce injustice."⁴ Questions of law will be reviewed *de novo*.⁵ In the absence of an error of law, lack of substantial evidence or abuse of discretion, the Court will not disturb the decision of the Board.

DISCUSSION

Upon review of the hearing, it appears that no facts are in dispute. While nuances of the events differed slightly from one witness to another, at the close of

¹ 29 Del C. §10142(d); *Avon Prods. v. Lamparski*, 203 A.2d 559, 560 (Del. 1972).

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

³ *Id.* (quoting *Cross v. Calfano*, 475 F.Supp. 896, 898 (D. Fla. 1979)).

⁴ *Delaware Transit Corp. v. Roane*, 2011 WL 3793450, at *5 (Del. Super. Aug. 24, 2011) (quoting *Straley v. Advanced Staffing, Inc.*, 2009 WL 1228572, at *2 (Del. Super. April 30, 2009)).

⁵ *Anchor Motor Freight v. Ciabattoni*, 716 A.2d 154, 156 (Del. 1998).

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the Employer's testimony, Claimant stated: "Actually, that is what took place."

The circumstances, therefore, were that Claimant was presented an assignment, on the basis of \$13.00 per hour for 5 hours, to "detail" a vehicle. This was a fairly routine assignment. At the end of 5 hours, the job had not been completed. Nevertheless, Claimant requested additional payment to complete it. The Employer refused to pay anything additional to Claimant for the completion. The Claimant refused to work further. Hence, the parties parted ways.

The Board found that, pursuant to *Peninsula Methodist Homes vs Crookshank*⁶, Claimant had engaged in misconduct, though it was but a single episode, which supports a finding of insubordination.⁷ On that basis, the Board determined that Claimant was not entitled to unemployment benefits, since he had committed "conduct [that] amounts to insubordination, or wilful or wanton conduct in violation of the employer's interest, the employee's duties, or the employee's expected standard of conduct." That finding is supported based upon the uncontested facts and law of this case.

The decision of the Board is, therefore, **AFFIRMED**.

IT IS SO ORDERED.

/s/ Robert B. Young
J.

RBY/lmc

⁶ 2000 WL 33114324, (Del. Super., 2000).

⁷ *Unemployment Insurance Appeal Board*, 2003 WL 21001004, (Del. Super., 2003).

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oc: Prothonotary
cc: Mr. Wakley, Esq.
Mr. William Christensen
Kent County Motor Sales
Opinion Distribution
File