IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

CHERYL A. FEENEY-WATHEN; :

: C.A. No. K13A-10-007 WLW

Appellant,

:

V. :

BAYHEALTH MEDICAL CENTER:

and UNEMPLOYMENT

INSURANCE APPEAL BOARD,

:

Appellees. :

Submitted: November 27, 2013 Decided: January 30, 2014

ORDER

Upon Defendant Bayhealth Medical Center's Motion to Dismiss. *Denied*.

Brian T. N. Jordan, Esquire of Jordan Law, LLC, Wilmington, Delaware; attorney for Appellant.

James H. McMackin, III, Esquire and Allyson B. DiRocco, Esquire of Morris James, LLP, Wilmington, Delaware; attorneys for Appellee Bayhealth Medical Center.

WITHAM, R.J.

ISSUE

The Court has before it Bayhealth Medical Center's Motion to Dismiss pursuant to Superior Court Civil Rule 72(c).

FACTUAL AND PROCEDURAL BACKGROUND

Appellant Cheryl Feeney-Wathen (hereinafter "Appellant") appeals from the decision of the Unemployment Insurance Appeals Board (hereinafter "the Board" or "the UIAB") disqualifying Appellant from the receipt of unemployment benefits. Appellant had been employed as a security officer by Bayhealth Medical Center (hereinafter "Employer") from May 15, 2011 until May 13, 2013.

The Claims Deputy had found that Appellant was terminated from her employment without just cause; the Appeal's Referee affirmed the Claims Deputy's determination. A hearing was held before the Board on October 9, 2013. By decision dated October 17, 2013 the Board reversed the decision of the Appeals Referee and found that Appellant had voluntarily quit her employment because she did not want to accept a temporary position at a different facility. The Board concluded that Appellant was disqualified from receiving unemployment benefits pursuant to 19 *Del*. *C.* § 3314(1).

This appeal followed. Appellant filed a Notice of Appeal on October 26, 2013. In a section entitled "Grounds for Appeal," Appellant describes nine different grounds for appealing the Board's decision. These grounds include: lack of substantial evidence to support the Board's finding that the position Employer offered to Appellant was within a reasonable distance from her residence; lack of substantial evidence to support the Board's finding that Appellant had been accustomed to

working at Employer's other locations during her employment; lack of substantial evidence that Appellant voluntarily quit her job; legal error by the Board in reaching each of the three foregoing conclusions; other errors of law and conclusions not supported by substantial evidence; failure of the Board to properly apply the law to the facts; and the findings and decisions of the Board are arbitrary and capricious.

On November 7, 2013 Employer filed the instant Motion to Dismiss. Citing 19 *Del. C.* § 3323(a) and Superior Court Civil Rule 72(c), Employer argues that Appellant's Notice of Appeal fails to state the grounds upon which appellate review is sought. Employer provides no specific argument or details as to what exactly is lacking in the Notice of Appeal.

On November 21, 2013 Appellant filed a response to the Motion to Dismiss. Appellant directs the Court's attention to the nine stated grounds for relief in the Notice of Appeal, and argues that the Notice of Appeal is sufficient and complies with Rule 72(c).

DISCUSSION

The only issue currently before the Court is the sufficiency of Appellant's Notice of Appeal. When a decision of the UIAB is appealed, the appellant is required both by statute and by the Superior Court Civil Rules to state the grounds for relief upon which appellate review is sought. Specifically, Rule 72(c) provides that a notice of appeal must specify the parties taking the appeal; the decision being appealed from; the grounds of the appeal; and the name of the Court to which the

¹ 19 Del. C. § 3323(a); Del. Super. Ct. Civ. R. 72(c).

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appeal is being taken.² The Notice of Appeal must also be signed by the appellant's attorney, if the appellant is represented by counsel.³

In *Johnson v. East Coast Builders* (cited to by Employer), this Court held that failure to fully comply with Rule 72(c) did not render a notice of appeal insufficient because "it was clear from the case caption that claimant was appealing the Board's order in the case of the same name." In *Silvious v. Conley*, the Delaware Supreme Court explained that when the Superior Court acts in the capacity of an appellate court, it utilizes the same standard for notices of appeal as the Supreme Court. This is the "essential purpose" standard: the notice of appeal is sufficient so long as it "provide[s] notice of the appeal to all litigants who may be directly affected thereby, and. . .afford[s] them an opportunity to take action to adequately protect their interests."

The Court must admit that it is left confused by Employer's Motion to Dismiss. Not only does Appellant's Notice of Appeal include all of the information required by Rule 72(c), but it also easily satisfies the essential purpose standard by including nine different and detailed grounds for appeal. The Court notes that several of these grounds are duplicative. Nonetheless, that is a problem with too much detail, not lack

² Del. Super. Ct. Civ. R. 72(c).

³ *Id*.

⁴ Johnson v. E. Coast Builders, 1995 WL 562124, at *2 (Del. Super. Aug. 11, 1995).

⁵ Silvious v. Conley, 775 A.2d 1041, 1042 (Del. 2001).

⁶ *Id*.

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thereof. There is more than enough information contained within Appellant's Notice

of Appeal to put Employer on notice of the appeal and to allow Employer to take

action to adequately protect its interests.

Employer's Motion to Dismiss lacks sufficient detail and argument as to why

the Motion should be granted. Employer provides no detail whatsoever as to what

information is missing from the Notice of Appeal, or how the grounds for appeal

stated in Appellant's Notice are insufficiently described. Employer merely repeats

italicized quotes from § 3323(a), Rule 72(c), and East Coast Builders to the effect

that grounds for relief must be stated in a notice of appeal. No actual argument is

included in the Motion.

Given this lack of information, the Court is left only with its own evaluation

of Appellant's Notice of Appeal. Because Appellant's Notice of Appeal clearly sets

forth the grounds for the appeal and complies with the requirements of Rule 72(c),

Employer's Motion to Dismiss must be denied. The Court shall issue a briefing

schedule following the issuance of this decision.

CONCLUSION

Bayhealth Medical Center's Motion to Dismiss is hereby **DENIED.**

IT IS SO ORDERED.

/s/ William L. Witham, Jr.

Resident Judge

WLW/dmh

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