

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

LATASHA BESSIX NEWTON,	)	
	)	
Appellant,	)	
v.	)	C.A. No.: K25A-03-001 NEP
	)	
UNEMPLOYMENT INSURANCE	)	
APPEAL BOARD	)	
	)	
&	)	
	)	
BALLY’S,	)	
	)	
Appellees.	)	

Submitted: September 4, 2025

Decided: November 24, 2025

ORDER¹

Upon Appeal from the Decision of the Unemployment Insurance Appeal Board

AFFIRMED

Before the Court is the appeal of Latasha Bessix Newton (“Newton”) from the decision of the Unemployment Insurance Appeal Board (“the Board”) affirming the Referee’s finding that Newton was disqualified from receiving unemployment benefits after being discharged by her employer, Bally’s (“Bally’s”), for cause. Having reviewed the record, the Court finds that the Board’s decision is supported by substantial evidence and free from legal error. Accordingly, the Board’s decision is **AFFIRMED**.

¹ Citations in the form of “D.I. ____” refer to docket items, and citations in the form of “R. at ____” refer to the record of the proceedings below, which was filed with the Court on March 31, 2025 (*see* D.I. 11).

FACTUAL AND PROCEDURAL BACKGROUND

1. Newton was employed by Bally's as a cashier beginning in July 2024 and remained on a ninety-day probationary period at the time of her termination on August 9, 2024.² Bally's terminated Newton following multiple alleged incidents of hostile behavior toward coworkers and supervisors during her probationary training period.³

2. Following her termination, Newton applied for unemployment insurance benefits.⁴ On September 30, 2024, a claims deputy issued a Notice of Determination finding Newton ineligible for benefits.⁵ Newton appealed the decision of the claims deputy on October 4, 2024.⁶ A referee held a hearing on December 9, 2024, reversing the decision of the claims deputy and finding that Newton had been terminated without just cause and, as such, was not disqualified from the receipt of unemployment benefits.⁷

3. Bally's then appealed to the Board on December 18, 2024.⁸ The Board conducted a hearing on January 22, 2025, at which Newton and several Bally's employees testified as witnesses.⁹

4. The transcript of the Board hearing reflects that on several occasions Newton allegedly engaged in loud verbal altercations with management and coworkers.¹⁰ Paula Wright, Newton's supervisor, testified that Newton became argumentative after being told she could not bring a personal cup into a secure area and later had an outburst with her trainer, yelling that people were standing too close

² *See, e.g.*, R. at 7, 9, 80.

³ R. at 30–33.

⁴ *Id.* at 113.

⁵ *Id.*

⁶ *Id.* at 118–119.

⁷ *Id.* 69–71, 73–98.

⁸ *Id.* at 68.

⁹ *Id.* at 17, 24–49.

¹⁰ Tr. of Bd. Hr'g, R. at 30:24–32:8.

to her.¹¹ Mary Barkley, Newton’s trainer, corroborated that, during Newton’s training, Newton screamed at her.¹² Wright also explained that according to Bally’s policies, workers are hired on a 90-day probationary period and can be let go within those 90 days should they engage in “rude . . . discourteous behavior and not being able to work in the environment [in which the worker] was hired.”¹³

5. In her testimony, Newton denied engaging in the disruptive conduct described by her supervisors. Newton claimed that she merely asked Barkley to “leave [her] alone” after feeling overwhelmed,¹⁴ denied yelling or using profanity,¹⁵ and attributed her behavior to anxiety.¹⁶

6. Following the hearing, the Board reversed the Referee’s decision, concluding that Newton’s conduct displayed a willful or wanton disregard for the employer’s interest and that the employer had met its burden to show just cause for termination.¹⁷

7. Newton filed a timely notice of appeal with this Court on March 6, 2025.¹⁸ In her opening brief and additional statement, Newton largely reiterated the same arguments raised before the Referee and the Board—namely, that she did not engage in willful misconduct but was wrongfully terminated because of her anxiety and post-traumatic stress disorder, which she contends caused her to react defensively when coworkers stood too close to her.¹⁹

8. Neither Bally’s nor the Board submitted a response to Newton’s opening brief. On May 13, 2025, the Board filed a non-participation letter indicating

¹¹ *Id.*

¹² *Id.* at 37:14–41:16.

¹³ *Id.* at 32:24–34:14; 37:3–12.

¹⁴ *Id.* at 46:6–47:9.

¹⁵ *Id.* at 48:7–11.

¹⁶ *Id.* at 47:20–23.

¹⁷ R. at 19–20.

¹⁸ *Id.* at 4.

¹⁹ See D.I. 18, 25.

that it would not be responding to Newton’s opening brief,²⁰ and Bally’s neither filed a response nor advised the Court that it intended to do so. The Court therefore resolves the appeal on the pleadings submitted.²¹

STANDARD OF REVIEW

9. 19 *Del. C.* § 3323 provides that on appeal to this Court “the findings of [the Board] as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the Court shall be confined to questions of law.”²² Thus, this Court’s role upon appeal is to determine whether the Board’s findings are supported by substantial evidence and free from legal error.²³ Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”²⁴ This Court may consider only the record before it and views the record in the light most favorable to the party prevailing below.²⁵ The Court’s review for legal error is *de novo*.²⁶

10. The Court will not disturb the Board’s determination unless there was an abuse of discretion in which the Board acted arbitrarily or capriciously or exceeded the bounds of reason in view of the circumstances and ignored recognized rules of law or practice to produce injustice.²⁷

²⁰ D.I. 22.

²¹ See D.I. 32.

²² *Starcks v. Unemployment Ins. Appeal Bd.*, 2013 WL 4848101, at *3 & n. 27 (Del. Super. July 30, 2013) (alteration in original) (citing *Coleman v. Dep’t of Lab.*, 288 A.2d 285, 287 (Del. Super. 1972) (“[T]he credibility of the witnesses, the weight of their testimony, and the reasonable inferences to be drawn therefrom are for the Board to determine.”)).

²³ *Id.*

²⁴ *Id.* (citation omitted).

²⁵ *Id.*

²⁶ *Odell v. Unemployment Ins. Appeal Bd.*, 2023 WL 4307685, at *2 (Del. Super. June 30, 2023).

²⁷ *Starcks*, 2013 WL 4848101, at *3.

ANALYSIS

11. Under 19 *Del. C.* § 3314(2), a claimant is disqualified from benefits if discharged for “just cause in connection with the [claimant’s] work.” “Just cause” has been defined as a willful or wanton act in violation of either the employer’s interest, the employee’s duties, or the employee’s expected standard of conduct.²⁸ Willful or wanton conduct requires a showing that the individual was conscious of his or her actions or recklessly indifferent to their consequences and does not necessarily connote bad motive, ill design, or malice.²⁹

12. The Board reasonably found that Newton’s repeated verbal outbursts toward supervisors and workers constituted willful or wanton misconduct. Substantial evidence supports this conclusion. Wright and Barkley both testified to multiple incidents of yelling and insubordination,³⁰ corroborated by the HR representative’s testimony regarding contemporaneous reports and the decision to terminate Newton within her probationary period.³¹ The Board was entitled to credit employer’s witnesses over Newton’s account.

13. Delaware courts consistently uphold Board determinations of just-cause discharge where a claimant exhibits hostile or insubordinate behavior, even when the claimant asserts mitigating circumstances.³² It does not appear to this

²⁸ *Kids & Teens Pediatrics of Dover v. O’Brien*, 241 A.3d 218, 2020 WL 6386646, at *3 (Del. Oct. 30, 2020) (TABLE) (citing *Avon Products, Inc. v. Wilson*, 513 A.2d 1315, 1317 (Del. 1986)).

²⁹ *Coleman v. Dep’t of Lab.*, 288 A.2d 285, 288 (Del. Super. 1972).

³⁰ Tr. of Bd. Hr’g, R. at 30:24–32:8, 37:14–41:16.

³¹ *Id.* at 36:10–37:11.

³² See, e.g., *Flowers v. Del. Dep’t of Lab.*, 2023 WL 8649366, at *1–2 (Del. Super. Dec. 14, 2023), *aff’d sub nom. Flowers v. Unemployment Ins. Appeal Bd.*, 326 A.3d 1169 (Del. 2024) (finding termination constituted just case despite claimant’s allegations that her coworkers were at fault); *Roshon v. Appoquinimink Sch. Dist.*, 2010 WL 1077848, at *3–5 (Del. Super. Mar. 2, 2010), *aff’d*, 5 A.3d 631 (Del. 2010) (TABLE) (rejecting claimant’s explanations that his racial remark was a movie reference, occurred off-premises, and was attributable to obsessive-compulsive personality disorder); *Congo v. News J. Co.*, 1994 WL 465561, at *4 (Del. Super. July 15, 1994) (finding termination constituted just cause despite claimant’s alleged “emergency situation”).

Court that Newton's conduct was a single isolated mistake, but rather, part of a pattern of confrontational behavior that undermined an effective workplace.

14. Newton's reliance on alleged medical conditions does not compel a contrary result. The record contains no evidence establishing that Newton was unable to perform her duties due to a medical condition or that she sought an accommodation before engaging in behavior that led to her discharge.³³ In support of her appeal, Newton has attempted to supplement the record by submitting seventy-four pages of documents relating to psychotherapy visits and other treatment notes that were never presented to the Referee or the Board.³⁴ However, this Court's review is confined to the administrative record, and this Court may not consider evidence that was not before the agency below.³⁵ Because the psychotherapy materials are outside the certified record, the Court cannot consider them in evaluating whether the Board's decision was supported by substantial evidence. Absent competent record evidence or a timely request for accommodation, the Board properly found that Newton's termination was for cause rather than medical incapacity.

15. Viewing the record in a light most favorable to the prevailing party below, the Board's findings are supported by substantial evidence and its decision

³³ Cf. *Fretz v. Unemployment Ins. Appeal Bd.*, 2022 WL 17430375, at *4–5 (Del. Super. Dec. 6, 2022) (holding that a claimant may avoid disqualification if separation was involuntary due to verified medical inability to perform work).

³⁴ At the outset of her hearing before the Board, Newton sought to submit her medical records, but the Board advised that such materials would be discussed during her statement. Tr. of Bd. Hr'g, R. at 27:16–24 (D.I. 19). When Newton later testified, she did not renew her request for the Board to consider her medical records despite having an opportunity to do so. *See id.* at 47:20–23. As such, because no submission was made, the Board neither received nor considered Newton's medical records.

³⁵ *See Giandonato v. Inn at Montchanin*, 2012 WL 1413156, at *2 & n. 28 (Del. Super. Jan. 25, 2012) (citing *Hubbard v. Unemployment Ins. Appeal Bd.*, 352 A.2d 761, 763 (Del. 1976) (“Upon appeal from a denial of unemployment benefits, the Superior Court is limited to consideration of the record which was before the administrative agency.”)).

contains no legal error. Given the deference due to the Board's decision on appeal, the Board permissibly found that Newton violated Bally's policies and was terminated for just cause.

WHEREFORE, for the foregoing reasons, the Board's decision is **AFFIRMED**.

IT IS SO ORDERED.



Noel Eason Primos, Judge

NEP/tls

oc: Prothonotary
cc: Latasha Bessix Newton, *Pro Se*
Counsel of Record
Bally's