

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

CLIFFORD GRAHAM,)	
)	
Appellant,)	C.A. No. N13A-04-002 RRC
v.)	
)	
ZENITH PRODUCTS)	
CORPORATION and)	
UNEMPLOYMENT INSURANCE)	
APPEAL BOARD,)	
)	
Appellees.)	

Submitted: August 26, 2013
Decided: November 22, 2013

On Appeal from a Decision of the Unemployment Insurance Appeal Board.
AFFIRMED.

ORDER

Clifford Graham, Wilmington, Delaware, *pro se*, Appellant.

Kathleen F. McDonough, Esquire and Janine L. Hochberg, Esquire,
Wilmington, Delaware, Attorneys for Appellee, Zenith Products
Corporation.

James T. Wakley, Esquire, Deputy Attorney General, Department of Justice,
Wilmington, Delaware, Attorney for the Unemployment Insurance Appeal
Board.

COOCH, R.J.

This 22nd day of November, 2013, on appeal from a decision of the
Unemployment Insurance Appeal Board, it appears to the Court that:

1. Appellant Clifford Graham (“Appellant”) worked for Appellee Zenith Products Corporation (“Employer”) from November 14, 2011 until December 13, 2012. Appellant was terminated for violating Employer’s absence policy which states an employee that is absent more than two days without calling will be considered to have voluntarily quit effective two hours beyond the start time of the second day.¹ Appellant filed for and was granted unemployment benefits by a claims deputy. Employer timely appealed this claim.
2. On January 28, 2013, an Appeals Referee heard Employer’s appeal. On January 31, 2013, the Appeals Referee reversed the claims deputy’s decision and denied unemployment benefits on the basis that Appellant was terminated for “just cause.”² Appellant timely appealed to the Board and a hearing was held on March 20, 2013. On March 28, 2013, the Board upheld the Appeals Referee’s decision holding Appellant’s “failure to call in two consecutive days in a row constitutes job abandonment.”³ Appellant timely appealed the Board’s decision to this Court.
3. On July 9, 2013, Appellant submitted his opening brief, which reads, in its entirety:

To LEt you KNOW I FEEL I WAS tREAtED UNFAIR pEopLE gEt sick WE HAVE NO CoNtRoL OVER it ANYWAY I WAS sick ONE YEAR pRAYER TO This AND WAS OUt FROM woRk 6 DAys DIDNt CALL OFF FROM woRk Just BRouth My DoctER EXCUSE Back to woRk with ME AND Just got A poiNt AND thAt whAt They toly ME to Do

Clifford Graham

P.S WEll I DONt ThiNk A pERsoN ShouNld Lose ThERE JOB BECAUSE ThERE SICK [sic]⁴

4. On appeal, the Board advised the Court that it would not file an Answering Brief because “[t]he underlying case is on the merits and

¹ Division of Unemployment Appeals Referee’s Decision at 2.

² *Id.* at 4.

³ Decision of the Unemployment Insurance Appeal Board on Appeal from the Decision of Geoffrey D. Silverberg, Appeal Docket No. 10880077 (March 28, 2013).

⁴ Appellant’s Br. of July 9, 2013.

the Board does not intend to take a position as to the merits of the case.”⁵ Appellee Employer filed an answering brief on July 31, 2013.

5. Appellant failed to file a reply brief by the deadline set out in the brief schedule provided to him by letter of June 19, 2013. On August 16, 2013, this Court issued a “Final Delinquent Brief Notice” and received no response from Appellant.
6. Though this Court ordinarily would be limited to determining whether the Board’s decision was supported by substantial evidence,⁶ Appellant’s failure to set forth sufficient facts and supporting legal authorities dictates no further review. Dismissal is appropriate under Superior Court Civil Rule 72(i) because Appellant failed to file an appropriate opening brief and a reply brief.⁷ Appellant did not cite any case law or point to anything in the record favoring reversal.
7. “The Court recognizes that some leniency may be given to a *pro se* party in order to assume that a case is fully heard. However, at a minimum a *pro se* appellant's ‘brief[] must be adequate to enable an appellate court to conduct a meaningful review of the merits of the appellant's claims.’”⁸ Here, the Appellant has failed to meet even that standard.

Therefore, the Board’s decision is **AFFIRMED**.

IT IS SO ORDERED.

Richard R. Cooch, R.J.

cc: Prothonotary
Unemployment Insurance Appeal Board

⁵ Letter dated of July 29, 2013 from James T. Wakley, Esquire, Deputy Attorney General to the Court.

⁶ *Unemployment Ins. Appeal Bd. v. Duncan*, 337 A.2d 308, 309 (Del. 1975).

⁷ Super. Ct. Civ. R. 72(i) (“The Court may order an appeal dismissed, sua sponte . . . Dismissal may be ordered for untimely filing of an appeal, for appealing an unappealable interlocutory order, for failure of a party diligently to prosecute the appeal, for failure to comply with any rule, statute, or order of the Court or for any other reason deemed by the Court to be appropriate.”).

⁸ *Texiera v. Tryon*, 2002 WL 1575225, at *1 (Del. Super. July 15, 2002) (quoting *Power v. Myriad Services, Inc.*, 718 A.2d 528, 1998 WL 665022 (Del. July 21, 1998) (ORDER)).