

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

|                        |   |                          |
|------------------------|---|--------------------------|
| CAMILLA JONES,         | ) |                          |
|                        | ) |                          |
| Appellant,             | ) |                          |
|                        | ) |                          |
| UNEMPLOYMENT INSURANCE | ) | C.A. No. K26A-03-002 RLG |
| APPEAL BOARD, and PAUL | ) |                          |
| MITCHELL THE SCHOOL    | ) |                          |
| DELAWARE,              | ) |                          |
|                        | ) |                          |
| Appellees.             | ) |                          |

**Submitted: June 22, 2026**  
**Decided: October 14, 2026**

**OPINION**

***Upon Appeal from a Decision of the Unemployment Insurance Appeal Board***  
**AFFIRMED**

Camilla Jones, *Pro Se Appellant*.

Victoria E. Groff, Esquire, Department of Justice, Wilmington, Delaware. *Attorney for Appellee Unemployment Insurance Appeal Board.*

Victoria W. Counihan, Esquire, Department of Justice, Wilmington, Delaware. *Attorney for Appellee Delaware Division of Unemployment Insurance.*

Melissa L. Rhoads, Esquire, Tighe & Cotrell, P.A., Wilmington, Delaware. *Attorney for Paul Mitchell The School Delaware.*

**GREEN-STREETT, J.**

## **I. Introduction**

An employee at a cosmetology school took a leave of absence due to a difficult pregnancy. Once medically cleared to return to work, the employee believed her employer had terminated her. The employee filed for unemployment benefits. The Unemployment Insurance Appeals Board ultimately denied the employee's application, finding the employer had not terminated the employee. As the Unemployment Insurance Appeals Board's decision was based on substantial evidence and free from legal error, its decision is **AFFIRMED**.

## **II. Factual and Procedural Background**

### **A. Ms. Jones's initial claim for unemployment insurance benefits**

Appellant Camilla Jones worked as a "learning leader" at Paul Mitchell the School Delaware – Cosmetology School ("Paul Mitchell") beginning in July 2022.<sup>1</sup> On December 3, 2024, Ms. Jones commenced a leave of absence from Paul Mitchell because of a high-risk pregnancy, and, subsequently, to care for her newborn child's substantial medical needs.<sup>2</sup> Ms. Jones filed for unemployment benefits on December 8, 2024.<sup>3</sup> Ms. Jones's doctor cleared her return to work as of April 28, 2025.<sup>4</sup>

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<sup>1</sup> Opening Br. At 2. Discrepancy exists between Ms. Jones's recollection of her start date and Paul Mitchell's documented start date.

<sup>2</sup> R. at 16.

<sup>3</sup> Ans. Br. At 2.

<sup>4</sup> R. at 26.

On August 1, 2025, an unemployment claims deputy issued a decision finding Ms. Jones “eligible for receipt of benefits, if otherwise qualified and eligible, effective with or for week ending 12/14/2024 [sic].”<sup>5</sup> The claims deputy noted Paul Mitchell provided minimal information, only outlining that Ms. Jones “was on a leave of absence at the time of her separation from work.”<sup>6</sup> The claims deputy concluded, “[w]ithout any additional information from the employer, the department must use the sole information submitted by the claimant to determine the outcome of this claim.”<sup>7</sup>

With little input from Paul Mitchell, the claims deputy adopted Ms. Jones’s representation that “her job was filled while she was on extended leave caring for her baby.”<sup>8</sup> Ms. Jones explained she requested remote work because her baby required “24-hour care due to breathing complications and vomiting.”<sup>9</sup> Ms. Jones stated Paul Mitchell informed her no remote positions were available.<sup>10</sup> The claims deputy accepted Ms. Jones’s conclusion that she had been discharged from Paul

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<sup>5</sup> Id. at 114.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

Mitchell after not returning from her leave of absence.<sup>11</sup> Accordingly, the claims deputy found Ms. Jones eligible to receive unemployment benefits.<sup>12</sup>

**B. Paul Mitchell's appeal to an appeals referee**

Paul Mitchell, through its co-owner Trina Carter, filed an appeal of the claims deputy's decision.<sup>13</sup> Ms. Carter stated Ms. Jones's "employment [had] not ended. [Paul Mitchell] made her inactive in [its] systems until she returned."<sup>14</sup> Ms. Carter noted "there [was] still work available" for Ms. Jones; that Paul Mitchell "offer[ed] a flexible work schedule based on business hours;" and that "remote work [was] not possible due to [the] hands-on training requirements and lack of state approval for distance education."<sup>15</sup> As Paul Mitchell maintained it held a position open for Ms. Jones, Ms. Carter contended that supposition "contradicted any claim [Ms. Jones] was available for or seeking work during the period in question."<sup>16</sup>

Ms. Jones and Ms. Carter attended an Unemployment Insurance Appeals Hearing before an appeals referee on November 25, 2025.<sup>17</sup> Both parties were

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<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id. at 110.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id. at 76.

informed the appeal referee’s decision would be “based solely on what [is presented] during the hearing today.”<sup>18</sup> Ms. Carter testified that Ms. Jones worked for Paul Mitchell as a part-time education leader.<sup>19</sup> Ms. Carter recalled Ms. Jones “went on a leave of absence. So, she wasn’t officially discharged from the company. She didn’t return from her leave of absence.”<sup>20</sup> Ms. Carter reiterated that Paul Mitchell still retained “a position for her,” and “[Paul Mitchell was] really just still waiting for her to be [ ] approved to return.”<sup>21</sup> Ms. Jones did not ask Ms. Carter any questions on cross-examination.<sup>22</sup>

Ms. Carter called one witness, Dante Carter, to testify.<sup>23</sup> Ms. Carter testified Mr. Carter “is who handles a lot of the HR [sic].”<sup>24</sup> Mr. Carter stated Ms. Jones began working for Paul Mitchell on September 6, 2022.<sup>25</sup> He confirmed Ms. Jones

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<sup>18</sup> Id. at 78.

<sup>19</sup> Id. at 80.

<sup>20</sup> Id.

<sup>21</sup> Id. at 81.

<sup>22</sup> Id. at 82.

<sup>23</sup> Id.

<sup>24</sup> Id. at 81.

<sup>25</sup> Id. at 82. Discrepancy exists between Ms. Jones’s belief about when she began at Paul Mitchell and Paul Mitchell’s documented start date.

worked part-time until taking her leave of absence beginning on December 3, 2024.<sup>26</sup>

Ms. Jones did not cross-examine Mr. Carter.<sup>27</sup>

Ms. Jones testified she applied for unemployment benefits when she took maternity leave.<sup>28</sup> She stated her doctor opined she should be eligible for unemployment while out on medical leave to deal with complications during, and after, her pregnancy.<sup>29</sup> She confirmed she initially intended to return to work on April 28, 2025.<sup>30</sup> Ms. Jones explained her newborn child suffered from medical complications that required constant supervision.<sup>31</sup> Accordingly, when Ms. Jones reached out to Ms. Carter about returning to work, Ms. Jones requested a remote opportunity.<sup>32</sup> Ms. Jones testified she discovered Paul Mitchell removed her access to its computer system in June 2025.<sup>33</sup>

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<sup>26</sup> Id. at 82-83.

<sup>27</sup> Id. at 83.

<sup>28</sup> Id. at 84.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id. at 84-85.

<sup>32</sup> Id. at 85.

<sup>33</sup> Id.

The appeals referee directly asked Ms. Jones whether “[she was] ready to return to work.”<sup>34</sup> Ms. Jones responded, “so in order for me to return to work, I have to get care for her [daughter]. Like, I can work remote, but I have to get care for her. She still has to be monitored.”<sup>35</sup> After Ms. Jones concluded her testimony, she declined to make any further comments, stating, “everything is in my document.”<sup>36</sup> Ms. Carter reiterated, “the position has been open, [ ] [Paul Mitchell] still [has] a position that’s available for her when she’s able to return.”<sup>37</sup>

The appeals referee issued her decision on November 25, 2025, reversing the claim deputy’s determination, and finding Ms. Jones ineligible to receive unemployment benefits.<sup>38</sup> The appeals referee found the testimony and record before her evidenced that Ms. Jones “[was] out of work on a leave of absence. Therefore, [Ms. Jones] is not able and available for work during this time and is therefore disqualified for benefits.”<sup>39</sup> The appeals referee found Ms. Jones “was released to return to work on [April 25, 2025], but has not yet returned to work

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<sup>34</sup> Id.

<sup>35</sup> Id.

<sup>36</sup> Id. at 88.

<sup>37</sup> Id. at 88-89.

<sup>38</sup> Id. at 69.

<sup>39</sup> Id. at 70.

because she needs childcare since her child had some complications at birth which have resolved but she needs to be monitored [sic].”<sup>40</sup> The appeals referee concluded that, under 19 Del. C. § 3314(8), Ms. Jones was ineligible for unemployment benefits.<sup>41</sup>

**C. Ms. Jones’s appeal to the Unemployment Insurance Appeals Board**

Ms. Jones appealed the appeals referee’s decision to the Unemployment Insurance Appeal Board (the “UIAB”) on December 5, 2025.<sup>42</sup> Ms. Jones contended that, when she completed the paperwork related to taking her leave of absence, she learned that, if she failed to return to work by April 2025, her position might not be held open.<sup>43</sup> Ms. Jones testified that, during her leave, she “was informed that several new employees had been hired[,] and that [the] position had been filled.”<sup>44</sup> When Ms. Jones requested remote work opportunities, she “was told that nothing was available – even though some employees at Paul Mitchell [ ] work remotely.”<sup>45</sup>

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<sup>40</sup> Id.

<sup>41</sup> Id.

<sup>42</sup> Id. at 64.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id.

Ms. Jones reiterated Paul Mitchell removed her from “all internal platforms and [her] company email was disabled.”<sup>46</sup>

Ms. Jones asserted that she:

Remained able and available for suitable work, particularly remote work. During this time, Paul Mitchell was not [Ms. Jones’s] only employer. [She] was also employed by Prometric, from which [she] took a medical leave as well. Unlike Paul Mitchell, Prometric was able to accommodate [her] upon [her] return in May, and [her] reemployment with them was properly reported.<sup>47</sup>

Ms. Jones argued the record reflected Paul Mitchell terminated her employment.<sup>48</sup> She reemphasized she “was able, willing, and available for remote or suitable work.”<sup>49</sup>

Attached to her appeal, Ms. Jones included: (1) documentation from Aflac insurance indicating that Paul Mitchell notified them Ms. Jones was “no longer with their organization;”<sup>50</sup> (2) text messages from Mr. Carter related to his completing paper work for Ms. Jones’s unemployment benefits claim;<sup>51</sup> and (3) her signed

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<sup>46</sup> Id. at 65.

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> Id.

<sup>50</sup> Id. at 66.

<sup>51</sup> Id. at 67.

“request for personal leave of absence form,” indicating she intended to take leave until April 28, 2025.<sup>52</sup> The leave of absence form also outlined that, if she did not return by April 28, 2025, “the school [had] the right in its sole discretion not to hold [her] job open until [her] return and [she] [might] either be re-employed in a different position or [might] lose the opportunity to continue [her] employment in any position.”<sup>53</sup>

The UIAB held a hearing regarding Ms. Jones’s appeal on January 7, 2026.<sup>54</sup> Ms. Jones testified she requested remote work, and possessed the requisite skills for remote work, but Paul Mitchell did not accommodate her.<sup>55</sup> She explained she “couldn’t work with [Paul Mitchell] with having her [daughter] and having her [daughter’s] medical issues. [Ms. Jones’s] other employer, Prometric, [ ] accommodated [her], so [she] stayed employed with them.”<sup>56</sup>

Ms. Jones further testified she received a letter from Aflac updating her she would need to pay for her own insurance policy because Paul Mitchell informed

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<sup>52</sup> Id. at 68.

<sup>53</sup> Id.

<sup>54</sup> Id. at 27. The Court notes the transcript of this hearing identifies at least five individuals as “Unidentified Speaker.” The only *identified* speakers are Ms. Jones, and Deputy Attorney General Ryan Senall, Counsel to the Board. See id. at 30.

<sup>55</sup> Id. at 32.

<sup>56</sup> Id. at 32-33.

Aflac that Ms. Jones “was no longer employed there.”<sup>57</sup> When asked if she contacted Paul Mitchell to clarify, Ms. Jones confirmed she did.<sup>58</sup> She explained that she “reached out to [Ms. Carter] by text message, and [ ] asked her what was going on, and [Ms. Carter] said, ‘nothing.’ [Ms. Jones] asked if there was any remote work, and [Ms. Carter] said, ‘[Paul Mitchell doesn’t] have any at this time.’”<sup>59</sup>

The UIAB asked Ms. Jones about Ms. Carter’s representation that Paul Mitchell had an open position available for Ms. Jones.<sup>60</sup> Ms. Jones testified Paul Mitchell “never communicated that. [Ms. Carter] just said once the baby is healthy, and [Ms. Jones was] able to return,” Ms. Jones should contact Ms. Carter.<sup>61</sup> Ms. Jones confirmed she never reached out to Ms. Carter regarding Ms. Jones’s medical leave or returning from that leave.<sup>62</sup> When questioned about whether Ms. Jones made any attempt to contact Paul Mitchell regarding returning to employment after learning a position existed for her, Ms. Jones explained that she had not spoken to anyone at Paul Mitchell.<sup>63</sup>

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<sup>57</sup> Id. at 35.

<sup>58</sup> Id.

<sup>59</sup> Id.

<sup>60</sup> Id. at 36.

<sup>61</sup> Id.

<sup>62</sup> Id. at 36-37.

<sup>63</sup> Id. at 40.

In her final statement to the UIAB, Ms. Jones testified:

I am able to go to work. I would have – they just told me that the position was filled because they hired several people. And the only thing I know is that once those people were quit [sic], then I was [sic]. That was after the hearing [before the appeals referee]. Those people quit right before the phone hearing.<sup>64</sup>

Ms. Jones also provided the UIAB a note from her doctor.<sup>65</sup> The note identified December 3, 2024, through February 25, 2025, as the dates the doctor advised Ms. Jones to take medical leave.<sup>66</sup> The note indicated Ms. Jones did not qualify as “totally disabled from performing the duties required in [her] current occupation,” but also stated Ms. Jones’s remained totally disabled from December 3, 2024, through April 28, 2025.<sup>67</sup> The note included a comment that “patient took extended leave through April 28, 2025 to care for her newborn child with health complications.”<sup>68</sup> No representative from Paul Mitchell appeared at, or participated in, the hearing before the UIAB.

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<sup>64</sup> Id. at 44.

<sup>65</sup> Id. at 26.

<sup>66</sup> Id.

<sup>67</sup> Id.

<sup>68</sup> Id.

The UIAB issued its decision on March 2, 2026.<sup>69</sup> The UIAB found Ms. Jones “was medically unable and unavailable to work until April 28, 2025, when she was cleared to return to work by her doctor.”<sup>70</sup> Accordingly, 19 Del. C. § 3314(8) rendered Ms. Jones ineligible for unemployment benefits until she received medical clearance from her doctor to return to work.<sup>71</sup>

As to Ms. Jones’s status after April 28, 2025, the UIAB found, “Ms. Jones has failed to prove that she is available to work.”<sup>72</sup> The UIAB determined Ms. Jones “stated she has not returned to work for [Paul Mitchell] because she needs to work from home, which [Paul Mitchell] cannot accommodate.”<sup>73</sup> Addressing Ms. Jones’s contention that her employment with a different employer evidenced her availability to work, the UIAB differentiated the two employers by noting Ms. Jones’s other employer allowed her to “acquire remote employment.”<sup>74</sup> The UIAB concluded:

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<sup>69</sup> Id. at 23.

<sup>70</sup> Id. at 22.

<sup>71</sup> Id.

<sup>72</sup> Id.

<sup>73</sup> Id.

<sup>74</sup> Id.

The fact that [Ms. Jones] was able to acquire remote employment with one of her employers does not change the fact that [Ms. Jones] will only accept remote work opportunities[,] and will not return to work for the employer involved in this case... The [UIAB] finds that [Ms. Jones’s] self-imposed restriction of remote work is insufficient to establish that she is available to work.”<sup>75</sup>

The UIAB also suggested, “as [Ms. Jones] has been working for Prometric since May 2025, the Division of Unemployment Insurance may want to investigate [Ms. Jones’s] eligibility under 19 Del. C. § 3302(26).<sup>76</sup>

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<sup>75</sup> Id. at 23.

<sup>76</sup> Id.; 19 Del. C. § 3302(26) provides:

“Unemployment” exists and an individual is “unemployed” in any week during which the individual performs no services and with respect to which no wages are payable to the individual, or in any week of less than full-time work if the wages payable to the individual with respect to such week are less than the individual’s weekly benefit amount plus whichever is the greater of \$10 or 50% of the individual’s weekly benefit amount. The department shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, partial unemployment, partial unemployment of individuals attached to their regular jobs[,] and other forms of short-time work as the Department deems necessary.

Based on Ms. Jones’s continued employment with Prometric, the UIAB appears to have suggested she may have been ineligible for unemployment benefits regardless of her status with Paul Mitchell.

#### **D. Ms. Jones’s appeal to this Court**

Ms. Jones filed her *pro se* appeal of the UIAB’s decision on March 12, 2026.<sup>77</sup> She filed her Opening Brief on May 11, 2026.<sup>78</sup> The Division of Unemployment Insurance (the “Division”) filed a “Letter in Lieu of Answering Brief” (the “Answering Brief”) on May 27, 2026.<sup>79</sup> Paul Mitchell filed a “Notice of Joinder” on June 1, 2026, joining the Answering Brief.<sup>80</sup> The UIAB filed a letter on June 2, 2026, indicating that it did “not intend to file an answering brief or to participate in this appeal.”<sup>81</sup> Ms. Jones filed her Reply Brief on June 9, 2026.<sup>82</sup>

#### **III. Standard of Review**

When reviewing a decision of the UIAB, “this Court is confined to a determination of whether the [UIAB’s] decision is supported by substantial evidence and is free from legal error.”<sup>83</sup> “Substantial evidence is ‘more than a scintilla but

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<sup>77</sup> Id. at 1.

<sup>78</sup> D.I. 19.

<sup>79</sup> D.I. 20.

<sup>80</sup> D.I. 22.

<sup>81</sup> D.I. 23.

<sup>82</sup> D.I. 25.

<sup>83</sup> Garrett v. Unemployment Ins. Appeals Bd., 2017 WL 2705382, at \*2 (Del. Super. June 22, 2017) (citing Unemployment Ins. Appeal Bd. of the Dept. of Labor v. Duncan, 337 A.2d 308, 308 (Del. 1975)).

less than a preponderance.”<sup>84</sup> This Court cannot “weigh the evidence, determine questions of credibility, or make factual findings.”<sup>85</sup> “The burden is on the claimant to establish [her] right to unemployment compensation.”<sup>86</sup> To the extent the UIAB adopts the finding of an appeals referee’s decision, “the Court also relies upon the Referee’s determination.”<sup>87</sup>

#### **IV. Analysis**

On appeal, Ms. Jones argues, “the decision below should be reversed because the evidence does not support a finding of disqualifying misconduct under Delaware unemployment law.”<sup>88</sup> She contends that Paul Mitchell never provided “any physical evidence of [its] assertion that the Claimant was never terminated.”<sup>89</sup> Overall, Ms. Jones contests the sufficiency of the evidence relied upon by the UIAB in rendering its decision.<sup>90</sup>

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<sup>84</sup> Id. (quoting Olney v. Cooch, 425 A.2d 601, 614 (Del. 1981)).

<sup>85</sup> Willis v. Unemployment Ins. Appeal Bd., 2002 WL 31167541, at \*1 (Del. Super. Sept. 30, 2002).

<sup>86</sup> Petty v. Univ. of Delaware, 450 A.2d 392, 395 (Del. 1982) (quoting O’Neal’s Bus Service, Inc. v. Employment Security Commission, 269 A.2d 247, 249 (Del. Super 1970)).

<sup>87</sup> Pochvatilla v. U.S. Postal Serv., 1997 WL 524062, at \*1 (Del. Super. June 9, 1997) (citing Boughton v. Division of Unemployment Ins., 300 A.2d 25, 26 (Del. Super. 1972)).

<sup>88</sup> Opening Br. at 1.

<sup>89</sup> Id. at 4.

<sup>90</sup> Id. at 5.

The Division counters that the UIAB’s decision did not rest on any allegation of “disqualifying misconduct.”<sup>91</sup> Instead, the UIAB’s decision centered on its finding that Ms. Jones “was not able and available to work, due at first to her own medical condition and later to her child’s medical condition.”<sup>92</sup> The Division frames Ms. Jones’s appeal as attempting to relitigate factual determinations made by the UIAB.<sup>93</sup>

As a threshold matter, the Division correctly notes this Court cannot consider evidence outside of the record created below. Accordingly, the letter from Prometric (the “Prometric Letter”)<sup>94</sup> submitted by Ms. Jones to this Court as part of the instant appeal cannot and did not factor into the Court’s evaluation of the UIAB’s decision. The UIAB did not have the benefit of considering that letter at the time of the January 7, 2026 hearing – so this Court remains precluded from considering its content. The Court sympathizes with Ms. Jones’s position that the underlying record creates “an incomplete factual picture” in light of evidence directly contradicting the UIAB’s

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<sup>91</sup> See Ans. Br. at 1-2.

<sup>92</sup> Id. at 2.

<sup>93</sup> Id. at 3.

<sup>94</sup> See D.I. 6 at 3 (a letter from a manager at Prometric indicating Ms. Jones “has been employed with Prometric LLC since April 2022 as a certified Licensed Examiner for the state of Delaware,” and that Ms. Jones “is required to be at the site early in the morning and is not out of work until late in the afternoon.”).

finding that Ms. Jones could only perform remote work.<sup>95</sup> Nevertheless, the Court must decline Ms. Jones’s request to “not exclude relevant information that supports [her] entitlement to benefits” if that relevant information falls outside the record before the UIAB.<sup>96</sup>

Under 19 Del. C. § 3314(8), “an individual shall be disqualified for benefits if it shall be determined by the Department [of Labor] that total or partial unemployment is due to the individual’s inability to work.” That disqualification terminates “when the individual becomes able to work and available for work as determined by a doctor’s certificate and meets all other requirements under this title.”<sup>97</sup> Further, 19 Del. C. § 3315(3) requires an individual seeking unemployment benefits to be “able to work,” “available for work,” and “actively seeking work.”

The UIAB determined Ms. Jones did not qualify as “able to work” from December 3, 2024, through April 28, 2025.<sup>98</sup> The UIAB based that determination on the letter from Ms. Jones’s doctor identifying that timeframe as the period when Ms. Jones remained unable to work.<sup>99</sup> Ms. Jones concedes in her Reply that she

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<sup>95</sup> See Reply Br. at 1.

<sup>96</sup> Id. at 2.

<sup>97</sup> 19 Del. C. § 3314(h).

<sup>98</sup> R. at 22.

<sup>99</sup> Id. at 26.

“was medically unable to work until April 28, 2025.”<sup>100</sup> Accordingly, the Court finds the UIAB relied on substantial evidence in determining Ms. Jones did not qualify for unemployment benefits from December 3, 2024, through April 28, 2025.

As to whether Ms. Jones qualified for unemployment benefits after her doctor medically cleared her to return to work, the UIAB found Ms. Jones “failed to prove that she is available to work.”<sup>101</sup> The UIAB explained:

[Ms. Jones] stated that she has not returned to work for [Paul Mitchell] because she needs to work from home, which [Paul Mitchell] cannot accommodate. While [Ms. Jones] testified that she is available to work as evidenced by her other job, the [UIAB] disagrees. [Ms. Jones] worked for two employers before going on medical leave. Only one could later accommodate [Ms. Jones’s] desire to work from home. The fact that [Ms. Jones] was able to acquire remote employment with one of her employers does not change the fact that [Ms. Jones] will only accept remote work opportunities[,] and will not return to work for the [e]mployer involved in this case. This restriction establishes that [Ms. Jones] is not genuinely attached to the labor market. The [UIAB] finds that [Ms. Jones’s] self-imposed restriction of remote work is insufficient to establish that she is available to work.

The UIAB based that decision on the record available to it. At the time of the UIAB’s decision, the record consisted of: (1) the claims deputy’s decision;<sup>102</sup> (2) the

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<sup>100</sup> Reply Br. at 2.

<sup>101</sup> R. at 22.

<sup>102</sup> Id. at 114.

transcript of the hearing before the appeals referee;<sup>103</sup> (3) the appeals referee's decision;<sup>104</sup> (4) Ms. Jones's signed leave of absence request;<sup>105</sup> (5) text messages between Mr. Carter and Ms. Jones regarding paperwork related to Ms. Jones's unemployment benefits claim;<sup>106</sup> (6) a letter from Aflac insurance to Ms. Jones indicating that "Paul Mitchell [ ] notified us that you are no longer with their [sic] organization;"<sup>107</sup> (7) Ms. Jones's appeal of the appeals referee's decision;<sup>108</sup> (8) the transcript of the hearing before the UIAB;<sup>109</sup> and (9) a doctor's certificate identifying the dates Ms. Jones could not work.<sup>110</sup> As noted previously, the Prometric Letter – in which a representative from Prometric verified that Ms. Jones's employment does *not* consist of remote work – falls outside the record considered by the UIAB.<sup>111</sup>

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<sup>103</sup> Id. at 76.

<sup>104</sup> Id. at 69.

<sup>105</sup> Id. at 68.

<sup>106</sup> Id. at 67.

<sup>107</sup> Id. at 66.

<sup>108</sup> Id. at 64.

<sup>109</sup> Id. at 27.

<sup>110</sup> Id. at 26.

<sup>111</sup> See id. at 12.

Thus, this Court cannot consider the Prometric Letter, or any other document outside the record presented to the UIAB, when evaluating the UIAB's decision.

At the hearing before the appeals referee, Ms. Carter testified Paul Mitchell never "officially discharged" Ms. Jones.<sup>112</sup> Paul Mitchell removed Ms. Jones "from some of [its computer] platforms [ ] until she was ready to return."<sup>113</sup> Ms. Carter maintained that Paul Mitchell kept a position open for Ms. Jones, and that Paul Mitchell was "really just still waiting for her to be [ ] approved to return. So, [Paul Mitchell] didn't terminate her."<sup>114</sup>

Ms. Jones testified she asked Ms. Carter for remote work, but Ms. Carter informed her Paul Mitchell did not have any remote work available for her.<sup>115</sup> Ms. Jones stated, "So, in order for me to return to work, I have to get care for her. **Like I can work remote**, but I have to get care for her. She still has to be monitored."<sup>116</sup>

Based on that testimony, the appeals referee concluded Ms. Jones remained attached to Paul Mitchell, but was unavailable for work "because she needs childcare since her child had some complications at birth which have resolved but she needs

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<sup>112</sup> Id. at 80.

<sup>113</sup> Id.

<sup>114</sup> Id. at 81.

<sup>115</sup> Id. at 85.

<sup>116</sup> Id. (emphasis added).

to be monitored [sic].”<sup>117</sup> The appeals referee believed Ms. Carter’s representation that Paul Mitchell did not terminate Ms. Jones’s employment. The appeals referee found Paul Mitchell continued to hold an in-person position open for Ms. Jones.<sup>118</sup>

When Ms. Jones appealed the appeals referee’s decision, she presented the letter from Aflac indicating Paul Mitchell informed Aflac that Ms. Jones was “no longer with their [sic] organization.”<sup>119</sup> The UIAB asked Ms. Jones about that letter, specifically inquiring whether she contacted her “employer to find out what was taking place at that particular time.”<sup>120</sup> Ms. Jones testified she reached out to Ms. Carter, who responded nothing had changed, and Paul Mitchell still did not have remote work available to Ms. Jones.<sup>121</sup>

Ms. Jones also testified that Ms. Carter told her, “once the baby is healthy, and [Ms. Jones was] able to return, give [Ms. Carter] a phone call.”<sup>122</sup> Ms. Jones confirmed she never informed Ms. Carter she could return to work in her previous capacity.<sup>123</sup> The UIAB directly asked Ms. Jones, “it appears that [Paul Mitchell]

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<sup>117</sup> Id. at 70.

<sup>118</sup> Id.

<sup>119</sup> Id. at 66.

<sup>120</sup> Id. at 35.

<sup>121</sup> Id.

<sup>122</sup> Id. at 36.

<sup>123</sup> Id. at 36-37.

would take you back to work right now, is that correct?”<sup>124</sup> Ms. Jones responded that she had not “talked to them, but that’s what they said on the last hearing on the phone, yes.”<sup>125</sup>

Based on that testimony, the UIAB concluded Paul Mitchell held a position open for Ms. Jones.<sup>126</sup> In so doing, the UIAB found the testimony of Ms. Carter credible. Ms. Jones argues Paul Mitchell “does not provide any [p]hysical evidence of their [sic] assertion that the Claimant was never terminated.”<sup>127</sup> The UIAB, however, did not require physical evidence to substantiate Ms. Carter’s assertion. The UIAB, in its discretion, found Ms. Carter credible, and discounted any testimony by Ms. Jones to the contrary. This Court cannot “assess credibility of witnesses or weigh the evidence.”<sup>128</sup> The Court must defer to the UIAB’s credibility determination in this case.

The UIAB also determined Ms. Jones required remote work.<sup>129</sup> The UIAB based that finding on Ms. Jones’s repeated testimony that she requested remote work

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<sup>124</sup> Id. at 40.

<sup>125</sup> Id.

<sup>126</sup> Id. at 22.

<sup>127</sup> Opening Br. at 3.

<sup>128</sup> Garrett, 2017 WL 2705382, at \*2 (internal quotations omitted) (quoting Sokoloff v. Bd. of Med. Practice, 2010 WL 5550692, at \*5 (Del. Super. 2010)).

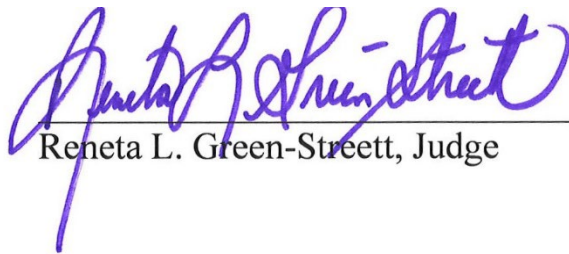
<sup>129</sup> R. at 22.

from Paul Mitchell, and failed to return from her leave of absence when denied that remote work request. Throughout the proceedings below, Ms. Jones explained she requested remote work to facilitate caring for her newborn child. Ms. Jones contends the letter from Prometric definitively shows she did not require remote work, but the Court cannot consider that letter as part of the record. Even if the Court *could* consider that letter, the record reflects that Ms. Jones required remote work to return to her employment at Paul Mitchell. At no point in any of the proceedings below did Ms. Jones seek to clarify that she could work for Paul Mitchell in her former capacity, or that she would accept any in-person role with Paul Mitchell. Accordingly, the UIAB possessed substantial evidence to conclude that Ms. Jones did not qualify as “available for work.” Similarly, no evidence exists to support the conclusion that the UIAB committed any reversible legal error.

## **V. Conclusion**

On appeal from the UIAB, this Court cannot consider any evidence beyond the record presented to the UIAB. Based on the record before the UIAB, the UIAB concluded Ms. Jones was not available for work. That conclusion was based on substantial evidence and free of legal error. Ms. Jones has not met her burden to establish her right to unemployment compensation. Thus, the decision of the UIAB is **AFFIRMED**.

**IT IS SO ORDERED.**



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Reneta L. Green-Streett, Judge