

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

T. HENLEY GRAVES  
*RESIDENT JUDGE*

SUSSEX COUNTY COURTHOUSE  
1 THE CIRCLE, SUITE 2  
GEORGETOWN, DE 19947  
(302) 856-5257

September 19, 2011

Lee A Williams, Jr.  
825 Kings Highway  
Apartment #602  
Lewes, Delaware 19958

**RE: *Williams v. Mountaire Farms*;  
Civil Action No. S10A-05-001**

Submitted: September 7, 2011  
Decided: September 19, 2011

On the Unemployment Insurance Appeal Board's Decision  
to Deny Claimant Unemployment Benefits: **AFFIRMED**

Dear Mr. Williams:

Lee Williams appeals the decision issued by the Unemployment Insurance Appeal Board ("the Board") that denied Mr. Williams' request for unemployment benefits. The Board denied Mr. Williams' request for benefits after concluding he voluntarily left his position of employment with Mountaire Farms ("Mountaire") without good cause. For the reasons set forth herein, the Board's decision is affirmed.

***Procedural & Factual Background***

Mountaire employed Mr. Williams from February 9, 2008, until October 23, 2009. On October 23, 2009, Mr. Williams was a supervisor of rehang who reported to the Day Shift Debone Superintendent, Michael Rosengren. Mr. Rosengren, in turn, reported to Julio Garcia. On October

23, 2009, Mr. Williams and Mr. Rosengren disagreed about the speed at which the chicken should flow. Mr. Rosengren told Mr. Williams the computer should be set to run 150 birds per minute. When Mr. Rosengren later checked the settings, the computer had been set to run 120 birds per minute. Mr. Rosengren adjusted the settings and approached Mr. Williams, who was speaking with Mr. Garcia. Mr. Williams asked Mr. Rosengren why he was complicating matters by changing the settings. Mr. Williams had previously found his line did not run efficiently at the higher rate of production. The situation grew heated. Mr. Williams asserts Mr. Rosengren told him if he did not like the situation, he should go home. Mr. Rosengren testified that Mr. Williams, of his own initiative, stated he was going home. It is undisputed that Mr. Rosengren said, if you go home, do not bother to return to work. Mr. Williams left the workplace.

On November 3, 2009, Mr. Williams filed a claim for unemployment benefits. A Claims Deputy found Mr. Williams had voluntarily terminated his employment with Mountaire and was, therefore, not entitled to unemployment benefits. Mr. Williams appealed this decision. A hearing was held before an Appeals Referee on January 6, 2010. By way of written decision mailed January 20, 2010, the Appeals Referee affirmed the Claims Deputy's decision. Mr. Williams appealed this decision, and a hearing was held before the Board on March 30, 2010. By way of written decision mailed April 30, 2010, the Board affirmed the Appeals Referee's decision. Mr. Williams appeals that decision to this Court.

### ***Discussion***

When reviewing the decisions of the Board, this Court must determine whether the Board's findings and conclusions of law are free from legal error and are supported by substantial evidence

in the record.<sup>1</sup> “Substantial evidence” is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”<sup>2</sup> The Court’s review is limited: “It is not the appellate court’s role to weigh the evidence, determine credibility questions or make its own factual findings, but merely to decide if the evidence is legally adequate to support the agency’s factual findings.”<sup>3</sup>

In this case, the findings of the Board are supported by substantial evidence in the record. Delaware law states that an individual will be disqualified from receiving unemployment benefits if that individual left work “voluntarily without good cause attributable to such work.”<sup>4</sup> A claimant bears the burden for demonstrating good cause existed for voluntarily terminating the employment relationship.<sup>5</sup> An undesirable or unsafe situation does not constitute good cause.<sup>6</sup> However, “[g]ood cause can include a substantial reduction in wages, work hours or a substantial deviation in the working conditions from the original agreement of hire to the detriment of the employee.”<sup>7</sup> In order to qualify for benefits, an employee must do something comparable to exhausting

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<sup>1</sup> *Unemployment Ins. Appeal Bd. v. Martin*, 431 A.2d 1265 (Del. 1981); *Pochvatilla v. United States Postal Serv.*, 1997 WL 524062 (Del. Super.); 19 *Del. C.* § 3323(a) (“In any judicial proceeding under this section, 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.”).

<sup>2</sup> *Gorrell v. Division of Vocational Rehab.*, 1996 WL 453356, at \*2 (Del. Super.), *aff’d*, 693 A.2d 1082 (Del. 1997) (TABLE).

<sup>3</sup> *McManus v. Christiana Serv. Co.*, 1997 WL 127953, at \*1 (Del. Super.).

<sup>4</sup> 19 *Del. C.* § 3314(1).

<sup>5</sup> *Longobardi v. Unemployment Ins. Appeal Bd.*, 287 A.2d 690 (Del. Super. 1971).

<sup>6</sup> *O’Neal’s Bus Serv., Inc. v. Employment Sec. Comm’n*, 269 A.2d 247 (Del. Super. 1970).

<sup>7</sup> *Weathersby v. Unemployment Ins. Appeal Bd.*, 1995 WL 465326, at \* 5 (Del. Super.).

administrative remedies by, for example, giving notice to the employer and seeking to have the situation remedied.<sup>8</sup>

From the inception of his claim for unemployment benefits, Mr. Williams has argued (1) Mr. Rosengren's interference with the production rate was detrimental and (2) when he left the workplace on October 23, 2009, he did so at the instruction of his supervisor, Mr. Rosengren. He raises the same arguments before this Court. As noted above, this Court does not make determinations of credibility or findings of fact. The only question before the Court is whether there is evidence in the record sufficient to support the Board's conclusion. Before the Appeals Referee, Mr. Williams testified he had a rate of production he preferred because it minimized the problem of chickens falling off the line in violation of workplace regulations. Mr. Williams also stated he had complained to Mr. Garcia previously about Mr. Rosengren's interference with the rate of production. Mr. Williams testified Mr. Rosengren told him to go home when he confronted Mr. Rosengren about the changed computer settings. Because Mr. Rosengren was his superior, he did as he was instructed and went home. Also before the Appeals Referee, Mr. Rosengren testified Mr. Williams expressed frustration with the production rate Mr. Rosengren had set and indicated that he would go home if he was not able to transfer departments. Mr. Rosengren testified he told Mr. Williams if he left, he would lose his job. Mr. Garcia also testified before the Appeals Referee that Mr. Rosengren did not direct Mr. Williams to leave the workplace. The Board relies on the evidence presented to the Appeals Referee but may hear new evidence as well. At the Board hearing, Ms. Anderson testified for Mountaire. She stated that, as a supervisor who had terminated other employees, Mr. Williams was aware no one may be terminated or suspended on the spot. Mr. Williams testified that he had

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<sup>8</sup> *Id.*

a witness who had seen the encounter and knew the position presented by Mountaire was false. Mr. Williams testified he told Ms. Anderson that he had a witness but she did not investigate the incident. This witness, who would have allegedly supported Mr. Williams' version of the dispute, was not present at the Board hearing. Mr. Williams did present the testimony of Ann Thomas, who stated she was in the car with Mr. Williams when he spoke to Ms. Anderson and she heard Ms. Anderson say she would follow up and investigate the fact that Mr. Williams had a witness to the incident.

In this case, the Board made the following findings of fact and conclusions of law:

The rate of production, unless controlled by government regulation or some supervening agreement, is a management decision. While well-intentioned and knowledgeable persons may disagree of what an appropriate rate of work is, ultimately that decision is left to the Employer. If the Claimant believed the rate set by Mr. Rosengren was inappropriate, unsafe, or compromised the quality of the product, he could have carried his concerns higher up the chain of command, complained to the Occupational Health and Safety Administration, gone to the Department of Agriculture plant inspectors, or gone to Human Resources. He did not take any of these actions. In addition, the Board finds Mr. Rosengren's testimony to be credible that he did not tell the Claimant to go home. However, even if Mr. Rosengren gave the Claimant such a direction, the Claimant, having been a supervisor involved in disciplinary actions, had good reason to know that such an order did not conform to the Employer's policy, exceeded the scope of Mr. Rosengren's authority, and need not have been obeyed.

There is ample evidence in the record below to support the Board's findings. It is clear Mr. Williams was agitated with what Mr. Williams perceived to be Mr. Rosengren overstepping his authority. Unfortunately, this discontent was not handled in an administratively appropriate fashion. The testimony of Mr. Rosengren and Mr. Garcia supports the finding that Mr. Williams was not directed to go home but, rather, left the workplace out of frustration. Mr. Williams testified he was frustrated that the matter was not taken to Human Resources. However, he, himself, could have

taken the matter to Human Resources. It is clear from the record that he was familiar with the proper procedure for handling a workplace dispute and also aware that a supervisor could not terminate an employee without following proper administrative procedure. Accordingly, the evidence is sufficient to support the finding that Mr. Williams knew he had administrative remedies that he did not pursue prior to voluntarily quitting his job. It is also sufficient to support the finding that, in the event Mr. Rosengren did, in fact, direct Mr. Williams to go home, Mr. Williams knew that this order was improper and need not have been obeyed. The Board's decision is supported by substantial evidence and free from legal error.

***Conclusion***

For the reasons set forth herein, the Board's decision that Mr. Williams is not entitled to unemployment benefits is AFFIRMED.

Very truly yours,

/s/ T. Henley Graves

cc: Prothonotary  
Mountaire Farms  
Unemployment Insurance Appeal Board