

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

SABRINA J. BOYD,	)	
Appellant,	)	
	)	
v.	)	
	)	C.A. No.: 10A-08-014 FSS
DELAWARE HEALTH AND	)	
SOCIAL SERVICES	)	
	)	
AND	)	
	)	
UNEMPLOYMENT INSURANCE	)	
APPEAL BOARD,	)	
Appellees.	)	

Submitted: July 14, 2011  
Decided: October 17, 2011

**ORDER**

**Upon Appeal From the Unemployment Insurance Appeal Board –  
*AFFIRMED***

A claims deputy, an appeals referee, and the Unemployment Insurance Appeal Board found that Sabrina Boyd was terminated from Delaware Health and Social Services for just cause, forging a doctor’s note. Therefore, she was disqualified from receiving unemployment benefits.<sup>1</sup> Now, Boyd appeals *pro se*.

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<sup>1</sup> 19 Del. C. § 3314(2) (“An individual shall be disqualified for benefits for the week in which the individual was discharged from the individual’s work for just cause.”).

1. On October 6, 2009, Boyd presented a doctor's note to her supervisor, excusing her September 29, 2009 through October 5, 2009 work absences. Similarities between this note, dated September 6, 2009, and a different, valid note, dated September 1, 2009, raised suspicions.

2. On October 30, 2009, a DHSS investigator spoke with Boyd's doctor, who confirmed the September 6, 2009 note was forged, stating the handwritten "09/28/09 - 10/05/09" was not his.

3. On December 14, 2009, DHSS fired Boyd for progressively detrimental work behavior, including the forgery. In its dismissal letter, DHSS stated that in recent years, Boyd had been disciplined repeatedly and served approximately 20 suspension days.

4. On or about February 14, 2010, Boyd filed an unemployment insurance benefits claim. The claims deputy denied Boyd's claim, concluding she was terminated for just cause and disqualified from receiving unemployment benefits. Boyd appealed to an appeals referee.

5. On March 31, 2010, the appeals referee heard Boyd's appeal. The referee affirmed the claims deputy's decision. Boyd then appealed to the Board, claiming she "did not get to tell all of [her] story" and she "has been treated unfairly about everything."

6. On June 6, 2010, the Board heard Boyd's appeal. On August 26, 2011, the Board affirmed the referee's decision, concluding "impeachment of testimony regarding the [note's] authenticity serves to impeach [Boyd's] entire case." On August 24, 2010, Boyd filed a timely appeal with this court.

7. The court's role here is limited. It may only decide if the Board's factual findings are supported by substantial evidence<sup>2</sup> and if the Board correctly applied the law to the facts.<sup>3</sup> If the Board's factual findings hold up and are legally error-free, the court must affirm unless the Board somehow abused its discretion.<sup>4</sup>

8. An employee is disqualified from receiving benefits if discharged for just cause.<sup>5</sup> Just cause is a "willful or wanton act or pattern of conduct in violation of the employer's interest, the employee's duties, or the employee's expected standard of conduct."<sup>6</sup> As a matter of law, submitting a forged doctor's note to justify an undeserved medical absence is willful and wanton misconduct.

9. The record supports the Board's factual findings. The Board found unpersuasive Boyd's allegation that she merely delivered the note unwittingly. Boyd testified that her daughter picked-up the September 6, 2009 note and Boyd just

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<sup>2</sup> *Unemployment Ins. Appeal Bd. v. Duncan*, 337 A.2d 308, 309 (Del. 1975).

<sup>3</sup> *Ridings v. Unemployment Ins. Appeal Bd.*, 407 A.2d 238, 239 (Del. Super. 1979).

<sup>4</sup> *Funk v. Unemployment Ins. Appeal Bd.*, 591 A.2d 222, 225 (Del. 1991).

<sup>5</sup> 19 Del. C. § 3314(2).

<sup>6</sup> *Abex Corp. v. Todd*, 235 A.2d 271, 271 (Del. Super. 1967).

delivered it to her supervisor. As September 6, 2009 was a Sunday, the Board found it unlikely Boyd or her daughter picked-up the note then.

10. The Board also held that markings on the note indicated a forgery.

The Board concluded:

A visual comparison of the note(s) signed by Dr. Nwodo speaks for itself. It is clear that the note allegedly dated September 6, 2009 is a copy of the note dated September 1, 2009, complete with the portion of the line marked through the square next to the instruction excusing the Claimant for the day on September 1<sup>st</sup>.

11. Boyd's blaming her daughter does not work. Boyd presented the note to justify a medical absence that she must have known was not ordered by her doctor. The forged note was a means to an end.

12. The record also supports the Board's finding that Boyd was discharged after progressive discipline. Boyd was disciplined several times in the two years before her dismissal, and served approximately 20 suspension days. Her disciplinary history, as the Board concluded, shows a "pattern of conduct in violation of an employee's standard of conduct."<sup>7</sup> Thus, DHSS was legally and factually justified to fire Boyd.

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<sup>7</sup> *Id.*

For the foregoing reasons, the Board's August 26, 2010 decision is

**AFFIRMED.**

**IT IS SO ORDERED.**

/s/ Fred S. Silverman

Judge

cc: Prothonotary

Ms. Sabrina J. Boyd, *Pro Se*

A. Ann Woolfork, Esquire - Delaware Health and Social Services

Katisha D. Fortune, Esquire - Unemployment Insurance Appeal Board