

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

CASEY A. STRUNK)	
)	
Appellant,)	
)	
v.)	C.A. N11A-03-016 JRJ
)	
NORTHEASTERN MUSIC)	
PROGRAMS &)	
UNEMPLOYMENT INSURANCE)	
APPEAL BOARD,)	
)	
Appellees.)	

OPINION

Date Submitted: October 25, 2011
Date Decided: January 18, 2012

*Upon Appeal from the Unemployment Insurance Appeal Board: **AFFIRMED***

Casey A. Strunk, *Pro se*, 1505 Sleepy Hollow Road, Quakertown, PA 18951.

Katisha D. Fortune, Esq., Deputy Attorney General, Carvel State Office Building, 820 N. French Street, 6th Floor, Wilmington DE, 19801, Attorney for Unemployment Insurance Appeal Board.

Jurden, J.

I. INTRODUCTION

Appellant, Casey A. Strunk, files this appeal from the Unemployment Insurance Board's (the "Board") decision to affirm the revocation of his unemployment benefits. The Board determined that Strunk voluntarily quit his job without good cause, and as a result he is not eligible for unemployment benefits. Conversely, Strunk claims that due to circumstances outside of his control, he was forced to leave his position as a music teacher for good cause, and thus qualifies for unemployment benefits. For the reasons set forth below, the Court finds that the Board's decision is supported by substantial evidence and is free from legal error. As such, the Board's decision is **AFFIRMED**.

II. FACTS AND PROCEDURAL HISTORY

Strunk worked full-time as a music teacher for Northeastern Music Programs from approximately August 2008 through June 2010.¹ Strunk taught at two different schools for the 2009/2010 school year – St. John the Beloved and St. Mary Magdalen.² Although both positions were considered "part-time," Northeastern combined the two to make one "full-time" position.

At the conclusion of the 2009/2010 school year, St. John the Beloved decided to discontinue using Northeastern's services.³ The school informed Strunk

¹ Record ("R.") at 7.

² *Id.* at 15.

³ *Id.* at 16. The school year ended in June 2010.

of its decision, and then notified Randy Navarre, Northeastern's President.⁴ As a result, Navarre and Strunk had a conversation about Strunk's future. Navarre indicated that at the time only part-time work was available for the next school year, but that Navarre would do what he could to find Strunk a full-time position.⁵ However, there were no guarantees.⁶ Strunk told Navarre that he could not live on a part-time salary, and that he would not accept any employment unless it provided full-time hours and wages.⁷ Navarre took this to mean that unless a full-time position was available, Strunk would not return for the following school year in September.⁸

Strunk resigned from Northeastern on June 11, 2010, and then filed for unemployment benefits on October 3, 2010.⁹ The Department of Labor subsequently disqualified him from receiving unemployment benefits on December 21, 2010. On December 28, 2010, Strunk timely appealed the Department of Labor's decision disqualifying him from benefits, claiming he "did not voluntarily leave or turn down a full time job."¹⁰ The Appeals Referee affirmed the Claims Deputy's decision on January 31, 2010, finding that Strunk quit his job without giving his employer adequate time to address his complaint,

⁴ *Id.*

⁵ *Id.* at 8, 16.

⁶ *Id.*

⁷ *Id.* at 7, 17.

⁸ *Id.* at 37.

⁹ *Id.* at 1.

¹⁰ *Id.* at 3.

and thus he quit his job without good cause.¹¹ The Board affirmed the Appeals Referee's decision on March 22, 2011.¹²

III. PARTIES' CONTENTIONS

Strunk claims that the Board erred by affirming the Appeals Referee's decision that disqualifies him from receiving unemployment benefits. He argues that because of what he deemed to be a substantial reduction in hours and salary, he voluntarily terminated his employment at Northeastern for "good cause."¹³ To support his argument, Strunk claims that he gave Northeastern sufficient time to find him a job after his status changed from full-time to part-time, going as far as to wait for the completion of the typical hiring period that takes place between May and June.¹⁴

Neither the Board nor Navarre filed an Answering Brief in response to Strunk's Opening Brief. Rather, both parties rely on the underlying merits and the record developed below to support their positions.¹⁵ The record establishes the Appeal's Referee's determination, which the Board affirmed, as the following:

[T]he claimant's employment status changed from full-time to part-time. This tribunal notes that the claimant verbally resigned from work upon advising his employer that he would not be able to continue in his employment on a part-time basis. However, it should

¹¹ *Id.* at 9.

¹² *Id.* at 30.

¹³ App. Op. Br. at 4; *See Hopkins Construction, Inc. v. Unemployment Ins. Appeal Bd.*, 1998 WL 960713 (Del. Super.)

¹⁴ *Id.*

¹⁵ *See* Randy Navarre's Letter to the Court, filed September 16, 2011, and the State's Letter to the Court, filed October 7, 2011.

also be noted that this change was not due to take effect for about 3 months from the date that the claimant received notice of it. In addition, the claimant was advised that his employer intended on taking steps to keep him employed on a full-time basis, although no guarantee of full-time work was given. Under these circumstances, it would have behooved the claimant to give the employer a reasonable period to resolve the issue. However, the claimant resigned without giving his employer the opportunity to do so.¹⁶

By affirming the Appeals Referee's decision, the Board found that Strunk left on his own accord and without good cause because he failed to exhaust his administrative remedies before terminating his employment.¹⁷

IV. STANDARD OF REVIEW

Upon review of the Board's decision, the Court determines whether the Board's findings are supported by substantial evidence and free from legal error.¹⁸ Substantial evidence is such relevant evidence that a reasonable mind would accept as adequate to support a conclusion.¹⁹ The Court does not act as the trier of fact, nor does it have authority to weigh the evidence, decide issues of credibility, or make factual conclusions.²⁰ In reviewing the record for substantial evidence, the Court considers the record in the light most favorable to the party prevailing below, Northeastern and the Board.²¹ The Court's review of conclusions of law is

¹⁶ R. at 8.

¹⁷ *Id.* at 29.

¹⁸ *K-Mart, Inc. v. Bowles*, 1995 WL 269872, at *2 (Del. Super.).

¹⁹ *Oceanport Ind., Inc. v. Wilmington Stevedores, Inc.*, 636 A.2d 892, 899 (Del. Super. 1994).

²⁰ *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66-67 (Del. Super. 1965).

²¹ *Benson v. Phoenix Steele*, 1992 WL 354033, at *2 (Del. Super.).

de novo.²² Absent an error of law, the Board’s decision will not be disturbed where there is substantial evidence to support its conclusions.²³

V. DISCUSSION

Strunk claims that because he voluntarily terminated his employment at Northeastern for good cause he is entitled to unemployment benefits. Specifically, Strunk argues that because Northeastern only had part-time positions available for the following school year, he faced a significant reduction in hours and pay.

Under 19 *Del. C.* § 3314(1), unemployment benefits are not available for those who leave work “voluntarily without good cause attributable to such work”²⁴ “Good cause” has been defined as “such cause as would justify one in voluntarily leaving the ranks of the employed and joining the ranks of the unemployed.”²⁵ The Delaware Supreme Court recently provided a more thorough definition, holding that good cause is established in the context of unemployment compensation when: “(i) an employee voluntarily leaves employment for reasons attributable to issues within the employer’s control and under circumstances in which no reasonably prudent employee would have remained employed; and (2)

²² *Harris v. Logisticare Solutions*, 2010 WL 3707421, at *2 (Del. Super.).

²³ *Dallachiesa v. General Motors Corp.*, 140 A.2d 137, 138 (Del. Super. 1958).

²⁴ 19 *Del. C.* § 3314(1).

²⁵ *Thompson v. Christiana Care Health System*, 25 A.3d 778, 782 (Del. 2011) (citing *O’Neal’s Bus Service v. Employment Secur. Comm’n*, 269 A.2d 247, 249 (Del. Super. 1970)).

the employee first exhausts all reasonable alternatives to resolve the issues before voluntarily terminating his or her employment.”²⁶

Strunk bears the burden of demonstrating that he had good cause to voluntarily terminate his employment.²⁷ Relying upon *Hopkins Construction v. UIAB*,²⁸ Strunk argues that he had good cause to voluntarily terminate his employment at Northeastern because of a substantial reduction in hours and wages. It is true that Strunk faced a possible reduction in hours and wages, however, according to 19 *Del. C.* § 3314(1), an employee must “first exhaust all reasonable alternatives to resolve the issues underlying her employment before voluntarily terminating employment.”²⁹ This portion of the statute “does not impose a strict requirement that an employee [] exhaust all potential remedies before the employee may have good cause to quit, [but] an employee does have an obligation to inform an employer of resolvable problems and to make a good faith effort to resolve them before simply leaving.”³⁰ Strunk’s reliance on *Hopkins* is misplaced in that the claimant in *Hopkins* actually experienced a change in working conditions when the claimant’s employer took away the claimant’s company

²⁶ *Thompson*, 25 A.2d at 783.

²⁷ See *Longobardi v. Unemployment Ins. Appeal Bd.*, 287 A.2d 690, 692 (Del. Super. 1971).

²⁸ See *Hopkins* 1998 WL 960713, at *3.

²⁹ *Thompson*, 25 A.3d at 784.

³⁰ *Id.* (citing *Sandefur v. Unemployment Ins. Appeals Bd.*, 1993 WL 389217, at *4 (Del. Super. Ct.)).

vehicle, and changed his status from that of a salaried employee to an hourly employee.³¹

Unlike in *Hopkins*, Strunk *potentially* faced a change in hours and wages if Navarre could not find him a full-time position.³² But, as the Appeals Referee noted, Strunk's change from full-time to part-time was not due to take effect until September. Further, Strunk was not scheduled to work throughout the summer as a teacher, yet Northeastern's obligation to pay him continued until September 15, 2010. As opposed to making a good faith effort to resolve the issue "before simply leaving," Strunk informed Navarre that he would quit unless a full-time position was available. Although no full-time positions were available at the time, it appears that Strunk stood in a position to continue receiving a full-time salary for three months. The record shows that instead of allowing Navarre to attempt to correct the situation, Strunk informed he could not work part-time. Additionally, three months would have to pass before Strunk suffered any harm.

V. CONCLUSION

Because substantial evidence supports the Board's determination that Strunk terminated his position without good cause under 19 *Del. C.* § 3314(1), Strunk's assertion that he is entitled to unemployment benefits is unpersuasive. Consequently, the Board's decision is **AFFIRMED**.

³¹ *Hopkins*, 1998 WL 960713, at *1-2.

³² R. at 8.

IT IS SO ORDERED.

Jan R. Jurden, Judge

cc: Prothonotary