SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

1 The Circle, Suite 2
GEORGETOWN, DE 19947

July 24, 2012

Judith A. Miller
31775 Janice Road
Whispering Pines
Lewes, DE 19958

RE: Judith A. Miller v. Sleep Inn & Suites
C.A. No. S11A-12-006

Date Submitted: April 13, 2012

Dear Ms. Miller:

This is my decision on your appeal of the Unemployment Insurance Appeal Board's denial of your claim for unemployment benefits. You worked part-time for less than a month as a front desk clerk for Sleep Inn & Suites. You quit your job because your employer would (1) not let you adjust the air temperature in the office, (2) would not let you sit on a stool at work, (3) would not give you more hours, and (4) criticized your computer skills. You filed a claim for unemployment benefits on July 10, 2011. Your employer argued that you were not entitled to unemployment benefits because (1) your supervisor told you that you could wear a sweater if you were cold, (2) your supervisor told you that you could sit on a chair when you were not waiting on guests at the front desk, (3) you were never promised a certain number of hours, and (4) your supervisor offered to give you more training on the computer system. The Claims Deputy, Appeals Referee and Board all denied your claim for unemployment benefits, finding that you (1) did not quit your job for good cause, and (2) failed to exhaust your administrative remedies before quitting your job. You filed an

appeal with this Court, arguing that the Board's decision was based upon limited evidence and that you have more evidence available to demonstrate that you quit your job for good cause.

STANDARD OF REVIEW

The Supreme Court and this Court repeatedly have emphasized the limited appellate review of the factual findings of an administrative agency. On appeal from a decision of the Board, this Court is limited to a determination of whether there is substantial evidence in the record sufficient to support the Board's findings, and that such findings are free from legal error.[1] Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[2] The Board's findings are conclusive and will be affirmed if supported by "competent evidence having probative value."[3] The appellate court does not weigh the evidence, determine questions of credibility, or make its own factual findings.[4] It merely determines if the evidence is legally adequate to support the agency's factual findings.[5] Absent an error of law, the Board's decision will not be disturbed where there is substantial evidence to support its conclusions.[6]

DISCUSSION

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[1] *Unemployment Ins. Appeals Board of the Dept. of Labor v. Duncan*, 337 A.2d 308, 309 (Del. 1975).

[2] *Oceanport Ind. v. Wilmington Stevedores*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del. Super. 1986), *app. dism.*, 515 A.2d 397 (Del. 1986).

[3] *Geegan v. Unemployment Compensation Commission*, 76 A.2d 116, 117 (Del. Super. 1950).

[4] *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

[5] 29 *Del.C.* § 10142(d).

[6] *Dallachiesa v. General Motors Corp.*, 140 A.2d 137 (Del. Super. 1958).

You argue that you were eligible for unemployment benefits because the Board's decision was based upon limited information and that you have more information to present. Unfortunately, the time for the presentation of evidence has passed. This Court's role is limited to a determination of whether there is substantial evidence in the record to support the Board's findings. This Court does not weigh the evidence or make its own factual findings. Delaware law provides that an individual is disqualified from receiving unemployment benefits if she "left work voluntarily without good cause attributable to such work."[7] "Good cause" may include such circumstances as a substantial reduction in wages or hours or a substantial deviation in working conditions from the original agreement of hire to the employee's detriment.[8] The claimant bears the burden of showing "good cause" for voluntarily terminating employment and the claimant must demonstrate that she exhausted all of her administrative remedies prior to voluntarily leaving her work.[9]

The Board ruled that you were not entitled to unemployment benefits because you did not have "good cause" to quit your job, reasoning that you provided no evidence that (1) you experienced a substantial reduction in wages or hours or a substantial deviation in working conditions from the original agreement of hire to your detriment, and (2) you did not exhaust your administrative remedies with your employer. If you had been guaranteed a certain number of hours per week, then you would have been justified in leaving your job if your hours had been reduced.[10] However, that

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[7] 19 *Del.C.* § 3314(1).

[8] See *Hopkins Construction v. UIAB*, 1998 WL 960713, at *3 (Del. Super. Dec. 17, 1998).

[9] *Longobardi v. Unemployment Insurance Appeals Board*, 287 A.2d 690, 692 (Del. Super. 1971).

[10] *Hopkins Construction*, 1998 WL 960713, at *3.

was not the case. You testified that you were hired as a part-time employee and that you were not guaranteed any specific number of hours.[11] Moreover, you did not present any evidence that indicated that your working conditions were changed. Your employer testified that the air conditioning was always set at a temperature between 71-73 degrees, and that it had to remain there for the comfort of the guests on the floors above the office. You testified that the air temperature was 52 degrees. The Board did not accept your testimony on this point, which it is entitled to do.[12] Your employer also testified you could wear a sweater if you were cold. You elected to quit instead of doing this. You also testified that you could not stand throughout your shift because you have two herniated discs in your back. Your employer testified that you could sit on a chair throughout the night except for when you were waiting on the customers. Once again, you elected to quit instead of doing this. And finally, you testified that your employer criticized your computer skills. Your employer testified that you could get more training on the computer system. Once again, you quit instead of doing this. The burden rested with you to provide the Board with "good cause" for leaving your employment. You did not provide the Board with any reason to reject your employer's testimony. After a meeting with your employer, in which your supervisor discussed your job performance, you quit your job because you were too upset to return to work. Prior to leaving your employment, you did not take advantage of any of your employer's proposed remedies that would have corrected the alleged working conditions that you were complaining about. Quite simply, you made no effort to take advantage of your employer's offer to remedy your complaints and instead just quit your job. You did not have good cause to do so. The Board's decision is in accordance

[11] See Board Hearing Transcript at 7.

[12] *Thompson v. Christiana Care Health System*, 25 A.3d 778, 782 (Del. 2011).

with the applicable law and is based upon substantial evidence in the record.

CONCLUSION

The Unemployment Insurance Appeals Board's decision is **AFFIRMED**.

IT IS SO ORDERED.

Very truly yours,

/e/ E. Scott Bradley

E. Scott Bradley

ESB/sal
cc: Prothonotary
Sleep Inn & Suites
Unemployment Insurance Appeal Board
File