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

SHARRON BROOMER, Appellant,	)	
v.	)	C.A. No. N12A-01-009-PLA
CHRISTINA SCHOOL DISTRICT, and THE UNEMPLOYMENT INSURANCE APPEAL BOARD, Appellees.	)	

Submitted: June 27, 2012
Decided: July 19, 2012

ON AN APPEAL FROM A DECISION FROM THE UNEMPLOYMENT INSURANCE APPEAL BOARD
AFFIRMED

James P. Hall, Esquire, PHILLIPS, GOLDMAN & SPENCE, P.A., Attorney for Appellant.

David H. Williams, Esquire, James H. McMackin, Esquire and Allyson B. DiRocco, Esquire, MORRIS JAMES, LLP, Attorneys for Christina School District.

Caroline L. Cross, Esquire, DEPARTMENT OF JUSTICE, Attorney for The Unemployment Insurance Appeal Board.

ABLEMAN, JUDGE

This is the Court's decision on an appeal by Sharron Broomer ("Broomer") from a decision of the Unemployment Insurance Appeal Board, affirming the decision of the Appeals Referee that held that Broomer refused to accept an offer of work for which she was reasonably fitted. The Board therefore disqualified Broomer from the receipt of unemployment benefits pursuant to 19 *Del.C.* §3314(3).

In her appeal, Broomer argues that there was no evidence before the Board that she was actually presented with an offer of work, and in fact her employer, the Christina School District, conceded that the District did not "offer" her a position. She submits that the Board committed legal error in reaching its conclusion that a posting on a bulletin board for a position for which Broomer deliberately declined to apply was not a sufficient offer within the meaning of Section 3314(3) of Title 19 of the Delaware Code.

Factual and Procedural Background

Broomer was employed as a paraprofessional on an hourly/as-needed basis by the Christina School District ("the District") beginning in 2008. From October 2010 through April 16, 2011 she was able to work fairly steadily at the Elbert Palmer School because the District was the recipient of additional funding from the federal government to support her position. The

District determined that it could not afford her position after the allocated federal funds were no longer available. Since April 16, 2011, therefore, Broomer has not been summoned for work.

At the hearings before both the Appeals Referee and the Board, Broomer admitted that, a couple of weeks before she applied for unemployment compensation benefits, she became aware of a job posting by the District for an available hall monitor position. Broomer testified that she was not interested in that position because she preferred to be an instructional aide rather than a hall monitor. She also claimed that she did not seek the position because she had a bad back.

On or about July 3, 2011, Broomer filed an application for unemployment benefits that the District opposed. By decision dated July 3, 2011, the Claims Deputy determined that Broomer was not eligible for benefits under 19 *Del.C.* §3315(7)(a) because there was a reasonable assurance that she would perform services in an educational institution during the next academic year.

Broomer appealed this decision to the Appeal Referee, who affirmed the Claims Deputy's determination of ineligibility for benefits, but concluded that Broomer was also disqualified under Section 3314(a) of Title

19 because she had refused an offer of work for which she was reasonably fitted, as a hall monitor beginning in September 2011.

Broomer appealed the Appeals Referee's decision to the Board. During a hearing that was conducted on December 14, 2011, Broomer responded to questioning about why she disagreed with the Referee's decision as follows:

> I disagree that she said I was, I refused a position the hall monitor position because I never applied for it. So I didn't refuse any position. You have to refuse a position, you have to apply for it. I never applied for any position.

The Chairman then asked "did they offer you this position" to which Broomer responded "No they did not, because I didn't apply for the position."

The District's Representative, Dana Crumlish ("Crumlish") also testified at the hearing that the District did not offer Broomer a position because "[t]here was a posting and Sharon did not apply for that posting." Crumlish further stated:

> Also, she is still currently listed as an employee, casual-seasonal employee at Christina School District … if there is work available she could be contacted. So she is still listed as an active employee at Christina School District, but there is not work available. When there is work available the administrators hire and select the best person for the position at that time.

In a decision dated January 7, 2012, the Board affirmed the decision of the Appeals Referee on the ground that Broomer had refused to accept an offer of work for which she was reasonably fitted, or had refused to accept a referral to a job opportunity." She was thereby disqualified from receiving unemployment benefits under 19 *Del.C.* §3314(3). This appeal followed.

Standard of Review

This Court's appellate review of decisions of the Board is limited. The Court's function is to determine whether the Board's findings and conclusions are supported by substantial evidence and free from legal error.[1] The substantial evidence standard is satisfied if the Board's ruling is supported by "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[2] The court does not weigh evidence, decide questions of credibility, or engage in fact-finding in reviewing a Board decision.[3]

Discussion

The relevant statute governing the disqualification of an individual from eligibility for unemployment benefits is found in 19 *Del.C.* §3314. The

[1] *Stoltz Mgmt Co. v. Consumer Affairs Bd.,* 616 A.2d 1205, 1208 (Del. 1992)*; see also Lively v. Dover Wipes Co.,* 2003 WL 21213415 at *1 (Del. Super. May 16, 2003).
[2] *Anchor Motor Freight v. Ciabottoni*, 716 A.2d 154, 156 (Del. 1998).
[3] *Hall v. Rollins Leasing*, 1996 WL 659476 at *2 (Del. Super. Oct. 4, 1996) (citing *Johnson v. Chrysler Corp.,* 213 A.2d 64, 66 (Del. 1965)); *see also Duncan v. Del. Dept. of Labor*, 2002 WL 31160324 at *2 (Del. Super. Sept. 2, 2002).

statute sets forth a number of grounds for disqualification. Specifically, it provides in subsection (3) as follows:

> An individual shall be disqualified for benefits:
> * * *
> (3) If the individual has refused to accept an offer of work for which the individual is reasonably fitted or has refused to accept a referral to a job opportunity when directed to do so by a local employment office of this state or another state . . .

Broomer's argument is quite simplistic. She insists that her decision not to apply for the hall monitor position cannot be a disqualifying factor under Section 3314(3) because she did not "refuse to accept an offer of work." Since she was never presented with a definitive offer she could not be deemed to have rejected any employment. In support of this theory, Broomer makes an elaborate attempt to define the meaning of the terms "offer" and "actual notice" through case law, Black's Law Dictionary, C.J.S. on the "form and sufficiency of offer of employment," and even a citation from a West Law hornbook. She submits that a bona fide offer of work should have "some degree of the concrete" and a "clear intent on the part of the employer to commit to an offer of work."

In the Court's judgment, these arguments clearly miss the point and lose sight of the primary policy underlying the unemployment compensation

statute, i.e. to assist those unemployed *through no fault of their own* who are also sincerely cooperating to end their employment.

Broomer frames "the broad issue" in terms of whether her decision not to apply for the hall monitor position constitutes a refusal to accept an offer of work and whether the bulletin board posting was a sufficient "offer" under the statute. But neither of these questions focus squarely on what the real inquiry should be in this case. By deliberately choosing to forego applying for the position, Broomer essentially precluded any possibility of receiving an offer. Thus, she was in fact responsible for her predicament. Her action -- or more precisely, her inaction -- was what provided the rationale required for the Board to deny her benefits.

Indeed, whether or not there was an actual offer within the meaning of the statute is really not disputed. The District admits that no offer was ever extended to Broomer and the Court agrees that she was never actually offered a job. Nor is there any dispute regarding whether the bulletin board posting gave actual notice of the job prospect to Broomer. She was plainly aware of the hall monitor position opening because she even provided distinct reasons for why she did not apply. Thus, this case does not turn either on the question of whether Broomer had actual notice of the job prospect or on the question of whether her employer intended to commit to

an offer of work. Nor does the extensive discussion of the meaning of the word "offer" address the essence of the Board's decision.

The crux of this case is not whether Broomer received an offer -- she clearly did not. Rather, the Board's decision recognized the simple fact that there was no way that Broomer could have received an offer to work as a hall monitor *unless she submitted an application*. And, it was her deliberate choice not to apply for the position that formed the basis for the Board's ruling because, by opting out, Broomer foreclosed any possibility that an offer would be made. In essence then, it was Broomer's insistence that she had no interest in the hall monitor position that placed her squarely within the category of those "unemployed who are not sincerely cooperating to end their unemployment."

Viewed in this context, the Board's decision is supported by substantial evidence and is free of legal error. The Board recognized two important factors that Broomer's arguments overlooked or ignored. First, applying for the job -- that is, actually submitting an application -- was an absolute prerequisite to receiving an offer. And second, the entire unemployment compensation statutory scheme is geared towards helping those individuals who are unemployed through no fault of their own. It is not intended to reward those who deliberately avoid a job opportunity

because of a preference for a different type of employment. Absent her willingness to take the initial affirmative step towards obtaining suitable employment, Broomer put herself in the position that no offer would ever be forthcoming. The Board's denial of benefits on this basis is supported by substantial evidence and is consistent with the purpose of the statute.

Conclusion

For all of the foregoing reasons, the decision of the Board is hereby AFFIRMED.

IT IS SO ORDERED.

/s/ Peggy L. Ableman
PEGGY L. ABLEMAN, JUDGE

Original to Prothonotary
cc: All counsel via File & Serve