

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

PATRICK G. FRANCIS,)
)
 Appellant,)
)
 v.) C.A. No. N10A-01-017-PLA
)
 PENCADER BUSINESS AND FINANCE)
 CHARTER HIGH SCHOOL and)
 UNEMPLOYMENT INSURANCE)
 APPEAL BOARD,)
)
 Appellees.)

UPON APPEAL FROM THE UNEMPLOYMENT
INSURANCE APPEAL BOARD
AFFIRMED

Submitted: December 6, 2010
Decided: January 31, 2011

This 28th day of January, 2011, upon consideration of the appeal of Patrick Francis (“Francis”) from a decision of the Unemployment Insurance Appeal Board (“the UIAB”) denying unemployment insurance benefits, it appears to the Court that:

1. Appellee Pencader Business and Finance Charter High School (“Pencader”) employed Francis as a foreign language instructor from December 2008 to June 10, 2009. As a result of a self-described assault upon Francis by a family member on June 1, 2009, he missed several days at the end of the 2008-2009 school year, with his final day of work being May 29, 2009.

2. On or about June 11, 2009, Pencader mailed a letter to Francis informing him that his employment would not be renewed. Pencader's letter was postmarked June 12, 2009, but it is undisputed that, because it was improperly addressed, the letter was returned to the school. Francis concedes that it was never delivered to him by the United States Postal Service.

3. In the meantime, because Francis had not received word from Pencader concerning whether he would be teaching for the following school year, he wrote a letter resigning his position and hand-delivered his resignation to Pencader on July 6, 2009. While Francis' testimony was conflicting as to if and when he was aware of his termination before he resigned, the record is clear, and the Appeals Referee and the Unemployment Insurance Appeal Board found, that Francis was not informed of the undelivered termination letter until after he wrote and delivered his resignation letter. In the letter, Francis explained the reasons for his decision.¹ When questioned by the Board, Francis stated the reason for his resignation:

I had written that letter, yes. I am asking myself now why did I really write that letter. I think, I thought it was the professional thing to do being that I had not heard back from the employer what was going on with the position.

¹ Pencader contacted Francis after receiving the returned letter to request that he personally pick up the correspondence at the school. On July 6, 2009, Francis picked up his termination letter, but at the same time he delivered his own letter of resignation. Francis concedes that he did not read the letter from Pencader prior to submitting his resignation.

4. On August 16, 2009, Francis filed for unemployment benefits with the Delaware Department of Labor (“DOL” or “Department”). Following a hearing, at which Pencader did not appear, a DOL Claims Deputy denied Francis’ request for benefits pursuant to 19 *Del. C.* §3314(1), based upon a finding that Francis had voluntarily resigned his position without good cause attributable to his work.

5. Francis timely appealed this decision to an Appeals Referee, who, after hearing, upheld the Claims Deputy’s determination that Francis was disqualified from receiving unemployment compensation benefits because he had voluntarily quit his employment without good cause.

6. Francis filed an appeal of the decision to the UIAB, which conducted a second evidentiary hearing on December 23, 2009. At this hearing, Francis confirmed that he had not been aware of Pencader’s decision to terminate at the time he submitted his letter of resignation. He also submitted a June 12, 2009 letter from the coordinator of University of Delaware’s Alternative Routes to Certification program, advising him that he was withdrawn from the teacher certification in which he had been enrolled. When he inquired about the reason, Francis was informed that the program’s decision was based upon the fact that he was no longer with Pencader. Despite receiving this information before hearing of his termination by Pencader, Francis did nothing to follow up.

7. After considering the record below, the Board affirmed the decision of the Appeals Referee that Francis had voluntarily left his employment without good cause, thereby rendering him ineligible for unemployment compensation. The Board determined that Francis' decision to submit a resignation letter because he felt it was "the professional thing to do" did not constitute good cause.

8. Francis filed this *pro se* appeal of the UIAB's decision to the Superior Court on January 20, 2010. Francis argues that the Board's decision should be reversed on the grounds that: (1) the employer failed to appear at either of the hearings; (2) "evidence drawn into case for employer was entered by employer referee without my consent"; (3) his termination was wrongful, as "there was a comparable salaried position open and available"; and (4) "termination documents were dated before my letter of resignation due to just cause." In addition to the foregoing grounds listed in his notice of appeal, Francis' brief is replete with 18 specified reasons—comprising nearly two full pages of single-spaced type—for why he had "just cause" to resign, none of which were presented at either the hearing before the Appeals Referee or the UIAB, and regarding which there is no evidence in the record.

9. This Court's appellate review of decisions of the UIAB is limited. The Superior Court's function is to determine whether the UIAB's findings and

conclusions are supported by substantial evidence and free from legal error.² 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."³ The Court does not weigh evidence, decide questions of credibility, or engage in fact-finding in reviewing a decision.⁴ Where the UIAB has made a discretionary decision, the scope of the Court's inquiry includes examining the UIAB's action for abuse of discretion.⁵ A discretionary decision will be upheld absent an abuse of discretion⁶ in which the UIAB "exceeds the bounds of reason in view of the circumstances and has ignored recognized rules of law or practice so as to produce injustice."⁷

10. Under 19 *Del. C.* § 3314(1), an individual is ineligible for benefits when the individual leaves employment voluntarily without good cause attributable to such work. In cases involving a voluntary resignation, the burden of proof is upon the claimant to demonstrate his entitlement to unemployment compensation.⁸

² *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).

³ *Anchor Motor Freight v. Ciabottoni*, 716 A.2d 154, 156 (Del. 1998) (citation omitted).

⁴ *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)).

⁵ *See, e.g., Funk v. Unemployment Ins. Appeal Bd.*, 591 A.2d 222, 225 (Del. 1991); *Meacham v. Del. Dep't of Labor*, 2002 WL 442168, at *1 (Del. Super. Mar. 21, 2002).

⁶ *Funk*, 591 A.2d at 225.

⁷ *Nardi v. Lewis*, 2000 WL 303147, at *2 (Del. Super. Jan. 26, 2000) (citation omitted).

⁸ *O'Neal's Bus Serv., Inc. v. Employment Sec. Comm'n*, 269 A.2d 247, 249 (Del. Super. 1970); *White v. Sec. Link*, 658 A.2d 619, 622 (Del. Super. 1994).

Where an employee has chosen to quit, he must also satisfy the burden of establishing that there was “good cause” for voluntarily terminating employment in order to be eligible for unemployment benefits. “Good cause” for an employee’s decision to voluntarily terminate a job requires reasons connected with the employment, and not personal reasons unrelated to the employment.⁹

11. Here, the Board’s conclusion that Francis voluntarily quit his job without just cause is supported by substantial evidence. Stated differently, there is no evidence in the record to support Francis’ claims that he was forced to quit for good cause or that he was terminated by Pencader as opposed to voluntarily terminating his position. Furthermore, although Francis argues that his former employer’s failure to appear for either of the evidentiary hearings in this case is a basis for reversal of the Board’s decision, the employer’s choice to forego attending the hearings does not render the Board’s decision invalid, as it is clearly supported by evidence in the record.

12. The resignation letter submitted by Francis states that “due to unforeseen circumstances” he would not be returning to his employment. Those circumstances, as explained by Francis in a letter to the DOL, were that he was “viciously attacked by a friend of the family, while at my grandparents[’] house for the weekend.” Because he missed four days at the end of the school year, he

⁹ *Brainerd v. Unemployment Compensation Comm’n*, 76 A.2d 126, 128 (Del. 1950).

preemptively determined to resign his position, drafted a letter to that effect, and handed it in to Pencader's head of Human Resources, Cindy Coyne. At the time he chose to turn in his resignation statement, Francis was completely unaware that Pencader had already determined to terminate him from his employment. For that reason, the Board's finding that Francis voluntarily quit his employment without good cause was proper. Indeed, Francis testified that he sent the resignation letter because he felt it was the "professional thing to do." Clearly, that explanation does not constitute good cause. Even assuming that Pencader was intending to discharge Francis, the evidence establishes that his decision to resign and his submission of the letter informing Pencader of that decision was a calculated strategy by Francis at a time when he was totally unaware of the school's intentions. In concluding that Francis voluntarily quit his job, the Board was entitled to consider the fact that Francis' decision to quit was made independently of anything that Pencader did or did not do. Resolving disputes of fact and credibility is the exclusive province of the UIAB, which has sole discretion to credit evidence that it considers believable and to discount any evidence that it does not deem to be believable.

13. Although in this appeal, Francis has provided a plethora of new, heretofore undisclosed reasons as to why he believes he had good cause to resign, none of these extensive explanations were made a part of the record either before

the Appeals Referee or the Board, and thus they cannot be considered by this Court. Based upon its factual findings, the Board properly determined that Francis voluntarily terminated his employment without good cause. The Court will not intrude on the UIAB's role as trier of fact by disturbing its factual findings.

14. For all of the foregoing reasons, the decision of the UIAB is hereby **AFFIRMED.**

IT IS SO ORDERED.

PEGGY L. ABLEMAN, JUDGE

Original to Prothonotary
cc: Kevin S. Mann, Esq.
Katisha D. Fortune, Esq.
Patrick G. Francis