

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

ERIC ELLICOTT,)	
)	
Appellant,)	C.A. No. N14A-05-009 RRC
v.)	
)	
STERICYCLE, INC., and)	
UNEMPLOYMENT INSURANCE)	
APPEAL BOARD,)	
)	
Appellee.)	

Submitted: December 11, 2014
Decided: January 27, 2015

On Appeal from a Decision of the Unemployment Insurance Appeal Board.
AFFIRMED.

ORDER

Eric Ellicott, Newark, Delaware, *pro se*, Appellant.

Paige J. Schmittinger, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware, Attorney for the Unemployment Insurance Appeal Board.

COOCH, R.J.

This 27th day of January, 2015, on appeal from a decision of the Unemployment Insurance Appeal Board, it appears to the Court that:

1. Appellant Eric Ellicott worked for Stericycle, Inc. (“Employer”) from November 26, 2012 until his termination on November 7, 2013.¹

¹ Division of Unemployment Insurance Appeals Referee’s Decision, R. and Tr. From the UIAB at 96, D.I. #4 (Aug. 1, 2014).

Appellant filed for unemployment benefits and was disqualified. Appellant appealed the disqualification and was then referred to the Appeals Referee for a determination of whether or not he was eligible for benefits.²

2. An Appeals Referee held a hearing on January 28, 2014 with Appellant and a representative of Employer. On February 19, the Appeals Referee determined that Appellant was discharged from work for just cause.³ The Referee found Appellant's repeated violations of company policy to be "willful and wanton."⁴ Further, the Referee found that such "willful and wanton" conduct formed a sufficient basis for discharge for just cause.⁵ Appellant's disqualification was affirmed by the Referee and Appellant timely appealed to the Board.⁶
3. The Board issued a decision upholding the Appeals Referee's decision on May 13, 2014, finding the evidence offered by Employer during the Board hearing was sufficient to satisfy the burden of proof.⁷ The Board also found that just cause was established for Appellant's discharge.⁸ Specifically, the Board found that a reasonable policy existed, that the employee was apprised of the policy, and that the employee violated the policy.⁹ Appellant timely appealed the Board's decision to this Court.
4. Appellant submitted his Opening Brief on September, 11, 2014, in which he lists several pages worth of citations/excerpts from the transcripts of the Referee's hearing and the Board hearing.¹⁰ On appeal, the Board advised the Court that it would not file an Answering Brief because "[t]he underlying case was decided on the merits, and the Appellant raises only challenges to the Board's

² See R. at 2-19.

³ See R. at 95.

⁴ R. at 98.

⁵ See *id.*

⁶ See Referee's Decision, R. at 95-99 (disqualifying Appellant for benefits); See also Appeal Request Notification, R. at 110.

⁷ See Decision of the Unemployment Ins. Appeal Board on Appeal from the Decision of Jacqueline R. Richmond, R. at 132-35.

⁸ See *id.*

⁹ See *id.* at 133-34.

¹⁰ Appellant's Opening Br. at 3-6, D.I. # 7 (Oct. 3, 2014).

decision on the merits.”¹¹ Employer failed to file an Answering Brief.¹²

5. This Court’s review of an Unemployment Insurance Appeal Board decision is limited to a determination of whether the Board’s decision is supported by substantial evidence and free from legal error.¹³ Substantial evidence requires “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”¹⁴ It is within the province of the Board, not this Court, to weigh evidence or make determinations based on credibility or facts.¹⁵ Reversal based on an abuse of discretion will be established only if “the Board ‘acts arbitrarily or capriciously’ or ‘exceeds the bounds of reason in view of the circumstances and has ignored recognized rules of law or practice so as to produce injustice.’”¹⁶

6. This Court finds no legal error or abuse of discretion on the part of the Board. Substantial evidence appears on the record to justify the Board’s finding that Appellant was terminated for just cause. “Just cause,” by definition, refers to a “willful or wanton act in violation of either the employer’s interest, or the employee’s expected standard of conduct.”¹⁷ Just cause can be established by a showing that an employee violated a reasonable company rule, so long as the employee was aware of the policy and the possible subsequent termination.¹⁸ The Board found that a reasonable policy existed, that the employee was apprised of the policy, and that the employee violated the policy repeatedly. Accordingly, this Court finds that substantial evidence exists to support the Board’s decision.

¹¹ Letter from Paige Schmittinger, Esquire, Deputy Attorney General to the Court, D.I. #8 (Oct. 3, 2014).

¹² Employer’s failure to file an Answering Brief is not dispositive of the instant appeal. See *Lafferty-Eaton v. T.D. Bank NA*, 2014 WL 824294 (Del. Super. Feb. 20, 2014).

¹³ See *Unemployment Ins. Appeal Bd. v. Martin*, 431 A.2d 1265, 1266 (Del 1981).

¹⁴ *Oceanport Indus., Inc. v. Wilmington Stevedores, Inc.*, 636 A.2d 892, 899 (Del. 1994) (citing *Olney v. Cooch*, 425 A.2d 610, 614 (Del. 1981)).

¹⁵ See *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del 1965).

¹⁶ *Straley v. Advanced Staffing, Inc.*, 2009 WL 1228572, at * 2 (Del. Super. Apr. 30, 2009) (internal citations omitted).

¹⁷ *Wilson v. Unemployment Ins. Appeal Bd.*, 2011 WL 3243366, at *2 (Del. Super. Jul. 27, 2011).

¹⁸ *Id.*

7. Moreover, Appellant cites neither case law nor any other evidence in his brief to show that the Board's decision was not based on substantial evidence. Rather, Appellant attempts in his filing to reargue his case on the merits. This Court finds Appellant's arguments to be improperly framed and generally without merit.
8. Appellant's failure to set forth sufficient facts and supporting legal authorities alternatively and independently warrants dismissal under Superior Court Civil Rule 72(i) because Appellant failed to file a meaningful Opening Brief.¹⁹ "The Court recognizes that some leniency may be given to a *pro se* party in order to assume that a case is fully heard. However, at a minimum a *pro se* appellant's brief "must be adequate to enable an appellate court to conduct a meaningful review of the merits of the appellant's claims."²⁰ Here, the Appellant has failed to meet that standard.

Therefore, the Board's decision is **AFFIRMED**.

IT IS SO ORDERED.

Richard R. Cooch, R.J.

oc: Prothonotary
cc: Unemployment Insurance Appeal Board
Stericycle, Inc., c/o TALX, P.O. Box 283, St. Louis, Missouri 63166

¹⁹ Super. Ct. Civ. R. 72(i) ("The Court may order an appeal dismissed, sua sponte ... Dismissal may be ordered for untimely filing of an appeal, for appealing an unappealable interlocutory order, for failure of a party diligently to prosecute the appeal, for failure to comply with any rule, statute, or order of the Court or for any other reason deemed by the Court to be appropriate.").

²⁰ *Texiera v. Tryon*, 2002 WL 1575225, at *1 (Del. Super. July 15, 2002) (quoting *Power v. Myriad Services, Inc.*, 718 A.2d 528, 1998 WL 665022 (Del. July 21, 1998) (ORDER)).