

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

COURTNEY MORALES,)
)
 Claimant-Appellant,)
)
 v.)
) C.A. No. N20A-12-004 VLM
 DOLLAR TREE STORES, INC. and)
 UNEMPLOYMENT INSURANCE)
 APPEAL BOARD,)
)
 Employer-Appellees)

ORDER

Submitted: May 21, 2021

Decided: August 9, 2021

*Upon Consideration of Appellant’s Appeal of the Decision of the Unemployment Insurance Appeal Board, **AFFIRMED.***

Courtney Morales, *Pro se.*

Victoria W. Counihan, Esquire, Department of Justice, Wilmington, DE.
Attorney for Appellee Unemployment Insurance Appeal Board.

MEDINILLA, J.

I. INTRODUCTION

Appellant, Courtney Morales (“Morales”), appeals a decision of the Unemployment Insurance Appeal Board (the “Board”) that found that she did not show sufficient evidence that there was good cause to voluntarily leave her employment with Dollar Tree, thus making her ineligible for unemployment insurance benefits under 19 *Del. C.* § 3314(1). Upon consideration of the arguments, submissions of the parties, and the record in this case, the Court hereby finds as follows:

1. Morales worked part-time for Dollar Tree from September 2019 to December 31, 2019 in a warehouse and as a cashier.¹ In December 2019, the Dollar Tree store where Morales worked was robbed after hours.² Following the robbery, Morales was concerned for her safety.³

2. Morales states that she reported her safety concerns following the robbery to her managers, but claims they had all left their employment because they also did not feel safe.⁴ She also contends that she was unsuccessful in her attempt to notify the Dollar Tree regional manager about her safety concerns.⁵ On December 31, 2019, Morales left her employment because she believed her safety concerns were not being addressed.⁶

¹ Record, at 9:23-11:9 [hereinafter R.].

² *Id.* at 33:14-17.

³ *Id.* at 11:21-12:2.

⁴ *Id.* at 31:24-32:6.

⁵ *Id.* at 32:7-18.

⁶ R. at 11:5-12:2.

3. On May 3, 2020, Morales filed a claim for unemployment insurance benefits.⁷ On June 23, 2020, a Claim’s Deputy found that she was disqualified from benefits under 19 *Del. C.* § 3314(1) because she failed to show good cause for leaving her employment.⁸ Morales timely appealed the decision to an Appeals Referee.⁹ On September 14, 2020, following a hearing, the Referee affirmed the Claim’s Deputy’s decision that Morales “failed to establish by a preponderance of the evidence she quit her job for good cause as defined by Delaware’s unemployment law,” and that she was disqualified from receipt of unemployment insurance benefits.¹⁰ Morales appealed the decision to the Board.¹¹

4. On October 28, 2020, the Board heard the appeal.¹² Morales argued that she did not quit for personal reasons and that she took all necessary measures to address her safety concerns.¹³ On November 25, 2020, the Board upheld the Referee’s decision finding that Morales had voluntarily left her employment without good cause connected to her work because she did not show that she had exhausted her remedies with her employer before quitting.¹⁴ The Board further found Morales’s testimony that she

⁷ *Id.* at 3.

⁸ *Id.*

⁹ *Id.* at 4.

¹⁰ *Id.* at 19.

¹¹ *Id.* at 22.

¹² *Id.* at 28.

¹³ *Id.* at 30:24-31:10.

¹⁴ R. at 39-40; 42.

spoke to all her managers and could not reach the regional manager conclusory and unconvincing.¹⁵

5. On December 22, 2020, Morales cited “(1) Lack of hours, (2) Safety issues, (3) Sexual harassment issues, and (4) Board is going by the laws stated which are my complaints” as the bases for this appeal. On March 4, 2021, Morales filed her opening brief.¹⁶ On March 29, 2021, the Division of Unemployment Insurance filed a letter as its response.¹⁷ On April 7, 2021, the Board filed a letter indicating it took no position.¹⁸ Morales did not file a reply. This Court was assigned the matter on May 21, 2021. The matter is now ripe for decision.

II. STANDARD OF REVIEW

6. On an appeal from the Board, this “[C]ourt must determine whether the findings and conclusions of the Board are free from legal error” and whether they are “supported by substantial evidence in the record.”¹⁹ Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”²⁰ The Court does not “weigh the evidence or make determinations based

¹⁵ *Id.* at 42.

¹⁶ Appellant’s Opening Brief, D.I. 11 [hereinafter Opening Brief].

¹⁷ Division of Unemployment Insurance Letter, D.I. 12.

¹⁸ UIAB Letter, D.I. 13.

¹⁹ *Wilson v. Unemployment Ins. Appeal Bd.*, 2011 WL 3243366, at *2 (Del. Super. July 7, 2011) (citing *Unemployment Ins. Appeal Bd. v. Martin*, 431 A.2d 1265, 1266 (Del. 1981); *Pochvatilla v. United States Postal Serv.*, 1997 WL 524062, at *2 (Del. Super. June 9, 1997); 19 *Del. C.* § 3323(a)).

²⁰ *Byrd v. Westaff USA, Inc.*, 2011 WL 3275156, at *1 (Del. Super. 2011) (quoting *Oceanport Industries, Inc. v. Wilm. Stevedores, Inc.*, 636 A.2d 892, 899 (Del. 1994)).

on credibility or facts.”²¹ It is within the exclusive purview of the Board to judge witness credibility.²² Absent an abuse of discretion by the Board, this Court will uphold the Board’s determination.²³

III. Discussion

7. Under 19 *Del. C.* § 3314(1), an individual shall be disqualified for benefits if the individual left work voluntarily without good cause attributable to such work.²⁴ Claimant carries the burden to show “good cause” for voluntarily terminating employment.²⁵ Good cause is established where: “(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 (ii) the employee first exhausts all reasonable alternatives to resolve the issues before voluntarily terminating his or her employment.”²⁶ The claimant must make a good faith effort to work with her employer and give the employer a reasonable amount of time to address her concerns before terminating her employment.²⁷ The Court has held that “an employee does not have good cause to quit merely because there

²¹ *Id.* (citing *Johnson v. Chrysler Corp.*, 203 A.2d 64, 66 (Del. 1965)).

²² *Thompson v. Christiana Care Health Sys.*, 25 A.3d 778, 782 (Del. Super. 2011).

²³ *See Funk v. Unemployment Ins. Appeal Bd.*, 591 A.2d 222, 225 (Del. 1991).

²⁴ 19 *Del. C.* § 3314(1) (“An individual shall be disqualified for benefits . . . [f]or the week in which the individual left work voluntarily without good cause attributable to such work and for each week thereafter until the individual has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned wages in covered employment equal to not less than 4 times the weekly benefit amount.”).

²⁵ *Longobardi v. Unemployment Ins. Appeal Bd.*, 287 A.2d 690, 692 (Del. Super. 1971).

²⁶ *Thompson*, 25 A.3d at 783.

²⁷ *Thompson*, 25 A.3d at 784.

is an undesirable or unsafe situation connected with the employment.”²⁸ Rather, good cause exists only “when an employee’s ability to earn a living is jeopardized.”²⁹

8. The record supports the Board’s finding that Morales failed to exhaust all administrative remedies before leaving her employment at Dollar Tree. In her original application and in subsequent hearings, Morales claims her reason for leaving her employment was due to safety concerns following a robbery. The Board was without evidence to support her claim that she had attempted to raise the issue with management. As such, the Court finds that the Board’s decision that Ms. Morales had failed to meet her burden was based on substantial evidence.

9. The record is littered with ancillary claims regarding reduced hours,³⁰ and a manager’s inappropriate conduct.³¹ Although the record reflects Morales briefly mentioned these claims, it remains clear that the original reason she gave for leaving her employment was concern for her own safety.³² The subsequent decisions by the Appeals Referee and the Board address only Morales’ actions regarding her safety concerns. The Court notes that even if Morales had originally claimed reduced hours

²⁸ *Ament v. Rosenbluth Int’l.*, 2000 WL 1610770, at *2 (Del. Super. Aug. 31, 2000) (citing *White v. Security Link*, 658 A.2d 619, 622 (Del. Super. 1994)).

²⁹ *Id.*

³⁰ See R. at 10:9-15, 33:23-34:3, 48; see also Opening Brief at 2.

³¹ Morales describes the manager’s conduct in her hearing with the Appeals Referee as, “[T]he manager was trying to pick up on me.” R. at 11:13-12:8. She does not bring up the manager’s conduct in her hearing with the Board. She characterizes this conduct as “sexual harassment” in her Notice of Appeal to the Superior Court and Opening Brief. R. at 48; Opening Brief at 2. Morales provides no additional information or supporting documents in the record.

³² R. at 3.

or inappropriate conduct as reasons for separating from her employment at Dollar Tree, she did not provide any supporting evidence to corroborate her claims. The Board's decision is equally applicable to these ancillary claims.

10. The Court briefly addresses Morales's argument that the Division of Unemployment Insurance miscalculated her weekly benefit amount. Morales failed to raise this contention in any of the proceedings below in this case nor were any of her exhibits to her opening brief presented below. "On appeal, the Court reviews the case on the record and does not hear new evidence."³³ Therefore, the Court does not consider this argument.

11. The record supports the Board's decision that Morales did not exhaust all administrative options before voluntarily quitting her position at Dollar Tree. There is no error of law. For the foregoing reasons, the Board's decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ Vivian L. Medinilla
Judge

³³ *Starcks v. Unemployment Ins. Appeal Bd.*, 2013 WL 4848101, at *4 (Del. Super. July 30, 2013) (citing *Thompson v. UIAB*, 2011 WL 1225587 (Del. Super. Mar. 25, 2011)).