

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Caroline A. Van Such, :  
Petitioner :  
 :  
v. : No. 1459 C.D. 2010  
 : Submitted: December 3, 2010  
Unemployment Compensation :  
Board of Review, :  
Respondent :

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge  
HONORABLE DAN PELLEGRINI, Judge  
HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION  
BY SENIOR JUDGE FRIEDMAN

FILED: January 5, 2011

Caroline A. Van Such (Claimant) petitions for review of the May 25, 2010, order of the Unemployment Compensation Board of Review (UCBR), which affirmed the decision of a referee to deny benefits to Claimant under section 402(b) of the Unemployment Compensation Law (Law).<sup>1</sup> We affirm.

Claimant worked for The Eyesight Center (Employer) as a full-time store manager. On July 19, 2008, Claimant was scheduled to receive a performance review and to attend an office meeting. Claimant appeared at the office and walked off the job,

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<sup>1</sup> Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. §802(b). Section 402(b) of the Law states that a claimant shall be ineligible for compensation for any week in which the claimant's unemployment is due to voluntarily leaving work without cause of a necessitous and compelling nature. 43 P.S. §802(b).

stating, “I’m leaving – goodbye.” Claimant provided no explanation for leaving and never contacted Employer to give an explanation. (Findings of Fact, Nos. 2-5.)

Claimant waited a year and a half before filing a claim for unemployment compensation. If she had not been in a subsequent automobile accident, she would not have filed the claim. (Findings of Fact, No. 6.) The local service center found Claimant ineligible for benefits under section 402(e) of the Law.<sup>2</sup> Claimant filed an appeal, and a hearing was held before a referee. At the hearing, Employer argued that Claimant voluntarily left her job and was not discharged from employment. After considering the evidence, the referee resolved the conflicts in the evidence in favor of Employer and concluded that Claimant voluntarily left her job and, thus, was ineligible for benefits under section 402(b) of the Law. Claimant filed an appeal with the UCBR, which affirmed. Claimant now petitions this court for review.<sup>3</sup>

Claimant first argues that she did not quit her job. In making this argument, Claimant relies on her testimony that Employer told her to leave after she expressed concerns about Employer’s behavior and about work conditions. (Claimant’s Brief at 8-9.) However, the referee and UCBR rejected Claimant’s testimony about the events of July 19, 2008. Thus, Claimant cannot prevail on this argument. *See Bruce v. Unemployment Compensation Board of Review*, 2 A.3d 667, 671 (Pa. Cmwlth. 2010)

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<sup>2</sup> Section 402(e) of the Law provides that a claimant shall be ineligible for compensation for any week in which the claimant’s unemployment is due to willful misconduct connected with her work. 43 P.S. §802(e).

<sup>3</sup> Our scope of review is limited to determining whether constitutional rights were violated, whether an error of law was committed or whether the necessary findings of fact are supported by substantial evidence. Section 704 of the Administrative Agency Law, 2 Pa. C.S. §704.

(stating that the UCBR is the arbiter of witness credibility), *appeal denied*, \_\_\_ Pa. \_\_\_, \_\_\_ A.3d \_\_\_ (No. 324 EAL 2010, filed Nov. 16, 2010).

Claimant next argues that she left because of Employer's verbal abuse, anger and demeaning behavior and that, under *Willett v. Unemployment Compensation Board of Review*, 429 A.2d 1282 (Pa. Cmwlth. 1981), an employee need not be subjected indefinitely to abusive conduct. In making this argument, Claimant again relies on her own testimony, which the referee and UCBR rejected. Thus, Claimant cannot prevail on this argument. *Bruce*, 2 A.3d at 671.

Accordingly, we affirm.

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ROCHELLE S. FRIEDMAN, Senior Judge

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Board of Review,	:	
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ORDER

AND NOW, this 5th day of January, 2011, the order of the Unemployment Compensation Board of Review, dated May 25, 2010, is hereby affirmed.

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ROCHELLE S. FRIEDMAN, Senior Judge