

5. During the claim week ending December 12, 2009, the claimant worked 43.75 hours.

6. During the claim week ending January 2, 2010, the claimant worked 33.5 hours; during this week, the claimant was off work for a holiday and a vacation day and was compensated for both days.

Board Opinion, June 28, 2010, (Opinion), Findings of Fact Nos. 1, and 3-6 at 1-2.

The Board determined that Claimant was ineligible for benefits because he was employed full-time during the weeks at issue.

Claimant contends that the Board failed to apply the Bureau of Employment Security's regulation (Regulation), 34 Pa.Code §65.115, to determine his full-time hours and that the Board should have used his average hours worked to determine his full time hours. Claimant also contends that the Board erred when it failed to deem him eligible for benefits because the amount he earned in the weeks in question did not exceed the total of his weekly benefit rate plus his partial benefit credit.²

Claimant contends³ that the determination of full-time work should have been based on the average number of hours he worked per week rather than the forty hours per week espoused by his employer, Glenn O. Hawbaker, Inc. (Employer).

² This Court's review in an unemployment compensation case is limited to a determination of whether constitutional rights were violated, errors of law were committed, or findings of fact were not supported by substantial evidence. Lee Hospital v. Unemployment Compensation Board of Review, 637 A.2d 695 (Pa. Cmwlth. 1994).

³ This Court has foregone the sequence of Claimant's arguments.

At hearing, Maureen Staches (Staches), Employer's payroll specialist, testified that Employer's "full-time job is considered 40 hours." Notes of Testimony, April 2, 2010, (N.T.) at 9. Claimant testified, "if you average my hours up it's way over 40." N.T. at 11.

The Board found that "full-time work" was forty hours per week. Claimant did not specifically challenge any findings of fact; therefore his challenge to this finding is waived. Owens v. Unemployment Compensation Board of Review, 748 A.2d 794 (Pa. Cmwlth. 2002). Assuming arguendo, that Claimant preserved a challenge, the Board accepted Staches's testimony. In unemployment compensation proceedings, the Board is the ultimate fact-finding body empowered to resolve conflicts in evidence, to determine the credibility of witnesses, and to determine the weight to be accorded evidence. Unemployment Compensation Board of Review v. Wright, 347 A.2d 328 (Pa. Cmwlth. 1975). Findings of fact are conclusive upon review provided that the record, taken as a whole, provides substantial evidence to support the findings. Taylor v. Unemployment Compensation Board of Review, 474 Pa. 351, 378 A.2d 829 (1977).

Section 4(u)(II) of the Law, 43 P.S. §753(u), provides that a claimant is eligible for unemployment benefits "with respect to any week of less than his full-time work if the remuneration paid or payable to him with respect to such week is less than his weekly benefit rate plus his partial benefit credit." The Board determined that Claimant's full-time work week was forty hours. For the week ending December 12, 2009, Claimant worked 43.75 hours. For the week ending January 2, 2010, Claimant worked 33.5 hours, plus he was paid for sixteen hours

for holiday and vacation time. Again, this was in excess of forty hours. Because Claimant did not work less than full-time, the Board correctly determined that Claimant was not eligible for benefits.⁴

Accordingly, this Court affirms.

BERNARD L. McGINLEY, Judge

⁴ Claimant also contends that the Board erred because it failed to apply the appropriate Regulation. The Regulation, pertains to the determination of the full-time weekly wage. That is not at issue here. Claimant also contends that he should have received benefits under Section 4(u)(II) of the Law because the amount he earned in each of the two weeks at issue was less than the total of his weekly benefit rate plus his partial benefit credit. However, because this Court has determined that Claimant was employed full-time during these weeks and ineligible for unemployment on that basis, this Court need not address this issue.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jeffrey E. Ragan,	:
	:
Petitioner	:
	:
v.	:
	:
Unemployment Compensation	:
Board of Review,	:
	:
Respondent	:

No. 1482 C.D. 2010

ORDER

AND NOW, this 6th day of January, 2011, the order of the Unemployment Compensation Board of Review in the above-captioned matter is affirmed.

BERNARD L. MCGINLEY, Judge