

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Seth A. Powell,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 1715 C.D. 2010
	:	SUBMITTED: March 25, 2011
Unemployment Compensation	:	
Board of Review,	:	
	:	
Respondent	:	

**BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge  
HONORABLE PATRICIA A. McCULLOUGH, Judge  
HONORABLE JOHNNY J. BUTLER, Judge**

**OPINION NOT REPORTED**

**MEMORANDUM OPINION BY  
PRESIDENT JUDGE LEADBETTER**

**FILED: April 21, 2011**

Seth A. Powell petitions, *pro se*, for review of the order of the Unemployment Compensation Board of Review (Board), which denied him unemployment compensation benefits on the ground that he voluntarily terminated his employment. We affirm.

Powell was employed as a dishwasher and cleaner by Lycoming Pub (Employer) for approximately four months, ending in October of 2009. Before the Referee, Powell testified that he was discharged after reporting late to work two days in a row. In contrast, Employer's general manager testified that Powell was not discharged, but simply stopped reporting to work. The Referee granted benefits, finding that Powell had been discharged. The Board, however, reversed.

The Board resolved the conflicting testimony in favor of Employer and found that Powell was ineligible for benefits because he had voluntarily abandoned his job. An appeal to this court followed.

On appeal, Powell continues to argue that he was dismissed. However, the Board chose to credit the testimony of Employer's general manager over Powell's. Because credibility determinations rest with the Board, we can not disturb this finding. *Graham v. Unemployment Comp. Bd. of Review*, 840 A.2d 1054 (Pa. Cmwlth. 2004).

When a claimant voluntarily terminates employment, that claimant is ineligible for unemployment compensation benefits unless he left the employment for necessitous and compelling reasons. Section 402(b) of the Unemployment Compensation Law,<sup>1</sup> 43 P.S. § 802(b); *Nolan v. Unemployment Comp. Bd. of Review*, 797 A.2d 1042 (Pa. Cmwlth. 2002). Powell has identified no such reasons, and is therefore ineligible for benefits.

For all the forgoing reasons, we affirm.

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**BONNIE BRIGANCE LEADBETTER,**  
President Judge

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<sup>1</sup> Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*.

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Board of Review,	:	
	:	
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**ORDER**

AND NOW, this 21st day of April, 2011, the order of the Unemployment Compensation Board of Review in the above-captioned matter is hereby AFFIRMED.

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**BONNIE BRIGANCE LEADBETTER,**  
President Judge