

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Denise J. Sipe, :
 Petitioner :
 :
 v. : No. 2398 C.D. 2009
 : Submitted: June 18, 2010
 Unemployment Compensation Board :
 of Review, :
 Respondent :

OPINION NOT REPORTED

MEMORANDUM OPINION
PER CURIAM

FILED: July 8, 2010

Denise J. Sipe (Claimant) appeals from an order of the Unemployment Compensation Board of Review (Board) denying her unemployment compensation benefits following her failure to appear before the Referee at her scheduled hearing time. For the following reasons, the order of the Board is affirmed.

According to Claimant, she worked as a quality control engineer with Conair Corporation (Employer) when, on April 22, 2008, she was presented with a reprimand letter containing lies about her job performance. At that time, she tendered a resignation letter that she always carried with her, periodically updating it in case it would be needed. The resignation letter stated that Employer had made it impossible for her to comply with her duties by overruling everything she tried to do and that this “harassment” made her afraid to come to work and caused

unnamed health problems. The resignation letter was not accepted. Claimant stated that she could not get into specifics concerning what happened to precipitate this incident because she signed a Stipulation Agreement Letter and Release with Employer that forbade her from making statements that might adversely affect Employer's business.

Claimant applied for unemployment compensation benefits on May 10, 2009, but her claim was denied. Claimant appealed that determination and was scheduled to appear at the Referee's hearing on August 17, 2009, but she did not appear. Employer's representatives offered testimony that Claimant was employed as a full-time quality control engineer; that she resigned her employment effective May 12, 2008, following receipt of a probation notice; continuing work was available to her had she not resigned; and that about a week later she received severance and signed a release. Employer offered her resignation letter for the purpose of showing that she resigned from her employment. The Referee denied Claimant's appeal because the only evidence of record that showed she had a necessary and compelling reason to leave work voluntarily¹ was uncorroborated hearsay.

¹ Section 402(b) of the Unemployment Compensation Law, Act of December 5, 1936, Second Ex. Sess. P.L. (1937) 2897, *as amended*, 43 P.S. §802(b), provides, in relevant part:

An employe shall be ineligible for compensation for any week –

* * *

(b) In which his unemployment is due to voluntarily leaving work without cause of a necessitous and compelling nature[.]

Claimant appealed to the Board, admitting that she missed the hearing because she marked the wrong date on her calendar. The Board affirmed the Referee's determination, and Claimant then filed for a remand hearing, arguing that she only missed the hearing because she marked the wrong date on her calendar. The Board denied her request for a new hearing because she did not have "proper cause" for failing to appear.² 34 Pa. Code §101.24(a). This appeal followed.³

On appeal, Claimant contends that her resignation letter contained enough information to show that she had a necessitous and compelling cause for leaving work. Her failure to attend the hearing before the Referee, an "[in]ability to follow to perfection, an indefinite path of bureaucratic red tape," (Claimant's Brief at 11) should not have affected her appeal because the resignation letter was sufficient to prove her case, and she did not need to offer additional information. Claimant provided no legal analysis or citations supporting her position.

Because she voluntarily left her job, Claimant had the burden of proving that it was for a necessitous and compelling reason. *First Federal Savings*

² Claimant did not raise the Board's denial of her request for a rehearing before us.

³ On appeal, the findings of fact made by the Board are conclusive so long as the record, taken as a whole, contains substantial evidence to support those findings. *Grieb v. Unemployment Compensation Board of Review*, 573 Pa. 594, 827 A.2d 422 (2003). "Substantial evidence is relevant evidence that a reasonable mind might consider adequate to support a conclusion." *Popoleo v. Unemployment Compensation Board of Review*, 777 A.2d 1252 (Pa. Cmwlth. 2001). Absent an error of law or showing of fraud, the decision of the Board must be affirmed. *Cook v. Unemployment Compensation Board of Review*, 543 Pa. 381, 671 A.2d 1130 (1996).

Bank v. Unemployment Compensation Board of Review, 957 A.2d 811 (Pa. Cmwlth. 2008). The only evidence of record that she may have had a necessitous and compelling reason was her resignation letter, which would be hearsay if offered to prove the truth of the bald claims contained within it – that she was harassed, scared to come to work, and suffered from health problems due to that harassment. Hearsay evidence admitted without objection may only support a finding of the Board if it is corroborated by other competent evidence. A finding of fact cannot be based solely on hearsay. *Walker v. Unemployment Compensation Board of Review*, 367 A.2d 266 (Pa. Cmwlth. 1976). Because no facts support Claimant’s version of events, the Board properly found that she was not entitled to unemployment compensation benefits.

Accordingly, the order of the Board is affirmed.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Denise J. Sipe,	:
	:
Petitioner	:
	:
	:
v.	: No. 2398 C.D. 2009
	:
	:
Unemployment Compensation Board	:
of Review,	:
	:
Respondent	:

PER CURIAM

ORDER

AND NOW, this 8th day of July, 2010, the order of the Unemployment Compensation Board of Review dated October 27, 2009, is affirmed.