



was asked to attend a counseling session to address her work performance. (Referee's Findings of Fact, No. 4.) Those present at the meeting were: (1) Claimant; (2) James Hepler, the county manager; (3) Jason Daley, the project manager; and (4) Patty Carrera, the clerical supervisor. (Referee's Findings of Fact, No. 4.) The primary topic of discussion on the agenda was that Claimant had been calling the foreman too frequently. (Referee's Findings of Fact, Nos. 5-6.)

Claimant became very upset during the meeting, did not understand it, and kept bringing up topics not related to the meeting. (Referee's Findings of Fact, Nos. 7-10.) After the meeting, Claimant slammed the door between the dispatch office and Daley's office and began "complaining and arguing" with a co-worker. (Referee's Findings of Fact, Nos. 12, 15.) Due to Claimant's conduct, Daley asked Claimant to leave, which she did, but she called ten to fifteen minutes later, complaining and calling Daley a "back stabbing asshole." (Referee's Findings of Fact, Nos. 19-23.) As a result of Claimant's conduct after the counseling session, Employer terminated Claimant for "inappropriate workplace behavior" in a letter dated January 28, 2009.<sup>2</sup> (Referee's Findings of Fact, No. 26.)

Claimant applied for unemployment benefits, but the local service center denied her application. Claimant appealed that decision to the referee, who held a hearing on June 24, 2009. At the hearing, Employer presented the testimony of Hepler and Daley. Both men testified that Claimant became very upset during the

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<sup>2</sup> The letter stated that Claimant was being terminated for her conduct on January 9, 2009, and did not mention anything about unsatisfactory work performance or the topics discussed in the counseling session held that day.

meeting, (N.T., 6/24/09, at 7-8, 12), and Daley testified about Claimant's conduct after the meeting, in particular that Claimant slammed a door, argued with a co-worker, and used profanity to Daley. (N.T., 6/24/09, at 12-14.)

Claimant testified on her own behalf at the hearing, and denied that she slammed a door, was rude to the co-worker, or used profanity. (N.T., 6/24/09, at 18-34.) The referee, however, accepted the testimony offered by Employer as more credible than that of Claimant, and, accordingly, denied benefits on the basis that Claimant's behavior was willful misconduct. The UCBR affirmed, adopting and incorporating the referee's findings into its January 22, 2010, order, and, additionally, finding that it "resolve[d] all conflicts in testimony in favor of [E]mployer." (UCBR's decision at 1.)

On appeal to this court,<sup>3</sup> Claimant asserts that Employer did not produce sufficient evidence to support its allegations about her conduct on January 9, 2009, because: (1) the events were fabricated; (2) Hepler was not present for the exchange between Claimant and the co-worker;<sup>4</sup> and (3) neither the co-worker nor Carrera testified at the hearing. We are unpersuaded.

The UCBR is the ultimate fact-finding body, empowered to resolve conflicts in evidence, and to assess the credibility of witnesses. *Unemployment*

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

<sup>4</sup> Claimant's brief complains that a third "witness," Mike Marshall, also did not witness the events of January 9, 2009, but we note that Marshall was, in fact, Employer's counsel.

*Compensation Board of Review v. Wright*, 347 A.2d 328, 329 (Pa. Cmwlth. 1975). As long as the UCBR’s findings of fact are supported by substantial evidence, we must accept them as conclusive. *Peak v. Unemployment Compensation Board of Review*, 509 Pa. 267, 277, 501 A.2d 1383, 1389 (1985). Substantial evidence is such relevant evidence that a reasonable mind might accept to support a conclusion. *Id.* at 275, 501 A.2d at 1387. Although Hepler was not present for the argument with the co-worker, Daley **was** present, and he testified clearly and unequivocally that Claimant slammed the door to his office, was rude to the co-worker, and called him a “back-stabbing asshole.” Daley’s testimony, credited by the UCBR, was a sufficient basis for the UCBR’s conclusions even without additional testimony from the co-worker or Carrera.

Accordingly, we affirm.

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ROCHELLE S. FRIEDMAN, Senior Judge

