

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joan L. Havrilla, :  
Petitioner :  
v. : No. 436 C.D. 2010  
Unemployment Compensation : Submitted: August 27, 2010  
Board of Review, :  
Respondent :

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge  
HONORABLE MARY HANNAH LEAVITT, Judge  
HONORABLE JAMES R. KELLEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION  
BY JUDGE LEAVITT

FILED: November 22, 2010

Joan Havrilla (Claimant) petitions this Court, *pro se*, to review an adjudication of the Unemployment Compensation Board of Review (Board) denying her claim for benefits under the Unemployment Compensation Law (Law).<sup>1</sup> The Board affirmed the determination of the Referee that Claimant voluntarily quit her job without cause of necessitous and compelling nature, and thus was ineligible for benefits under Section 402(b) of the Law.<sup>2</sup> Finding no error by the Board, we affirm.

Claimant worked for Saint Gobain Ceramics & Plastics (Employer) as a Press Operator for over 43 years. In April 2009, Employer offered an early retirement

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<sup>1</sup> Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. §§751-914.

<sup>2</sup> Section 402(b), in pertinent part, states that an employee shall be ineligible for compensation for any week “[i]n which his unemployment is due to voluntarily leaving work without cause of a necessitous and compelling nature [.]” 43 P.S. §802(b).

package to Claimant and four other senior employees in order to implement a workforce reduction. Claimant accepted the retirement package and retired on May 1, 2009. She applied for unemployment compensation benefits, and the UC Service Center denied her application. Claimant appealed on the grounds that three of her four retiring coworkers had received unemployment compensation benefits.<sup>3</sup>

Claimant testified that Employer offered the early retirement package as part of Employer's workforce reduction program. She further testified that if she did not accept the package, then it would have been offered to someone else. Claimant also testified that she believed that she would probably still be working had she not accepted the early retirement package.

The Referee found that Claimant understood that the retirement package was offered to the five most senior employees and that if they did not take it the employer would continue down the seniority list until five employees had accepted it. The Referee also found that Claimant believed that she would still be working if she did not take the early retirement package. As such, the Referee determined that Claimant was ineligible for unemployment compensation benefits because her employment would not have been adversely affected had she not accepted the early retirement package. Therefore, her separation was considered a voluntary quit. Claimant appealed to the Board, which affirmed based upon the Referee's factual findings and conclusions of law. Claimant now petitions for this Court's review.<sup>4</sup>

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<sup>3</sup> Initially, all four of the other employees received unemployment compensation benefits. However, the UC Service Center reversed its decision regarding the application filed by Lloyda Smithley. Smithley's appeal from the Board's order upholding the denial of benefits is docketed at *Smithley v. Unemployment Compensation Board of Review*, (Pa. Cmwlth., No. 308 C.D. 2010, filed November 22, 2010).

<sup>4</sup> The Board asks us to quash Claimant's brief for failure to comply with the Pennsylvania Rules of Appellate Procedure. While the Board is correct that Claimant's brief does not comply with the **(Footnote continued on the next page . . .)**

On appeal,<sup>5</sup> Claimant argues that the Board erred in finding her ineligible for unemployment compensation benefits because her acceptance of the early retirement package did not constitute a voluntary quit under Section 402(b) of the Law, 43 P.S. §802(b). Claimant views her separation from employment as a layoff. Claimant also contends that she is eligible for benefits because three of her coworkers who accepted the early retirement package received unemployment compensation benefits.

Claimant's issues are identical to those raised in *Smithley v. Unemployment Compensation Board of Review*, (Pa. Cmwlth., No. 308 C.D. 2010, filed November 22, 2010), which involved the same employer and the same retirement package. We therefore incorporate by reference the recitation of the law and analysis set forth in our opinion in *Smithley*, and affirm the order of the Board holding that Claimant is ineligible for benefits under Section 402(b) of the Law, 43 P.S. §802(b).

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MARY HANNAH LEAVITT, Judge

Senior Judge Kelley concurs in the result only.

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**(continued . . .)**

appellate rules, we decline to quash the brief and dismiss her appeal because she is proceeding *pro se* and we are able to discern the legal issues raised. Moreover, this Court is generally inclined to construe *pro se* filings liberally. See *Robinson v. Schellenberg*, 729 A.2d 122, 124 (Pa. Cmwlth. 1999).

<sup>5</sup> Our review is limited to determining whether constitutional rights were violated, whether an error of law has been committed, or whether necessary findings of fact are supported by substantial evidence. *Roberts v. Unemployment Compensation Board of Review*, 977 A.2d 12, 16 n.2 (Pa. Cmwlth. 2009).

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**ORDER**

AND NOW, this 22<sup>nd</sup> day of November, 2010, the order of the Unemployment Compensation Board of Review, dated March 3, 2010, in the above-captioned matter is hereby AFFIRMED.

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MARY HANNAH LEAVITT, Judge