STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. **SUPERIOR COURT**

(FILED: September 3, 2014)

GENEXION, INC.	:	
	:	
V.	:	**C.A. No. PC-2011-1625**
	:	
RHODE ISLAND DEPARTMENT OF LABOR AND TRAINING, DIVISION OF LABOR STANDARDS and CAROL A. LEWIS-CULLINAN	:	

DECISION

McGUIRL, J. Before the Court is an appeal from a decision of the Rhode Island Department of Labor and Training (DLT) finding that Carol A. Lewis-Cullinan (Ms. Lewis-Cullinan) is entitled to $14,637.89 in unpaid vacation wages. Genexion, Inc. (Appellant), Ms. Lewis-Cullinan's former employer, asks this Court to either reverse DLT's decision or remand the matter for a new hearing. Jurisdiction of this appeal is pursuant to G.L. 1956 § 42-35-15.

I

Facts and Travel

Ms. Lewis-Cullinan worked for Appellant as Senior Executive Director of North America Operations from October 1, 2006 until October 9, 2009. (DLT Hr'g Tr. (Tr.) 8, 12, Jan. 13, 2011; Pet'r's Ex. 1.) At the time she commenced working for Appellant, Ms. Lewis-Cullinan signed an Employment Agreement. (Tr. at 9; Pet'r's Ex. 2.) The Employment Agreement provided, inter alia, that she was entitled to five weeks of vacation time per year and could carry over a maximum of four weeks of that vacation time from year to year. (Pet'r's Ex. 2, § 4.3.) The Employment Agreement also provided that any accrued vacation time would be paid in a lump sum within thirty days after the date of termination. (Pet'r's Ex. 2, § 6.1.) After Ms.

Lewis-Cullinan terminated her employment with Appellant, she requested a payout of the 225.06 hours of vacation time that she had accrued. (Tr. at 20-24; Pet'r's Exs. 4A, 5, 6.) Appellant made one payment to Ms. Lewis-Cullinan in the amount of $5000 and requested that she accept periodic installments instead of one lump sum. (Tr. at 20-22; Pet'r's Exs. 4B, 5.)

On November 30, 2009, Ms. Lewis-Cullinan filed a Complaint Form for the Non-Payment of Wages (Complaint Form) with the Division of Labor Standards at the DLT. (Pet'r's Ex. 1.) On her Complaint Form, Ms. Lewis-Cullinan claimed that, pursuant to her Employment Agreement, she was owed $14,637.89 in outstanding accrued vacation time pay. Id. A hearing officer of the DLT held a hearing on January 13, 2011. (Decision at 1.) The hearing officer heard testimony from Ms. Lewis-Cullinan and Dr. Yves Grumser, the CEO of Genexion, S.A. and President of Appellant.

Ms. Lewis-Cullinan testified about the length and nature of her employment with Appellant. She began working for Appellant on October 1, 2006 and her last day was October 9, 2009. (Tr. at 11-12; Pet'r's Ex. 3.) The terms of her employment, including scheduled salary increases and vacation time, were articulated in an Employment Agreement (submitted as Pet'r's Ex. 2). (Tr. at 9-11.) She testified that, upon termination of her employment with Appellant, she inquired about a payout of her accrued vacation time pursuant to Section 6.1 of the Employment Agreement. (Tr. at 19-20.). Ms. Lewis-Cullinan testified that she received an email from a Senior Executive Director from Genexion, S.A. (Appellant's parent company) on November 12, 2009 (submitted as Pet'r's Ex. 5), offering to pay the accrued vacation time in $5000 monthly installments. (Tr. at 20-22.) She also testified that she filed the Complaint Form (submitted as Pet'r's Ex. 1) with DLT after Appellant ceased responding to her inquiries. (Tr. at 20.) Ms. Lewis-Cullinan also sent an email to Appellant's representatives on December 5, 2009, advising

them that she had filed the Complaint Form with DLT because Appellant was not in compliance with G.L. 1956 § 28-14-4.[1] (Tr. at 24; Pet'r's Ex. 6.) Ms. Lewis-Cullinan also submitted copies of her last two paystubs from Appellant. (Tr. at 18.) Petitioner's Exhibit 4A, dated October 15, 2009, reflects a Paid Time Off (PTO) balance of 225.06 hours. Petitioner's Exhibit 4B, dated October 30, 2009, reflects a PTO payment of $5000. This latter paystub also reflects that the PTO balance is still 225.06 hours, but Ms. Lewis-Cullinan testified that this balance was in error due to the $5000 payout reflected on this paystub. (Tr. at 27.) The narrative in Ms. Lewis-Cullinan's Complaint Form specifies that she received $5000 as of November 16, 2009 and was still owed 167.76 hours of accrued vacation time, payable at her hourly rate of $87.26, for a total amount owed of $14,637.89. (Tr. at 26-28; Pet'r's Ex. 1.)

Dr. Grumser both represented Appellant at the hearing and testified on its behalf. Dr. Grumser testified that he hired Ms. Lewis-Cullinan to start the North American office of Genexion, S.A. and that Appellant's operations were initially run from Ms. Lewis-Cullinan's basement. (Tr. at 31.) Dr. Grumser testified that he spent most of his time at Appellant's parent company's headquarters in Geneva, Switzerland, and only seven to ten days per year in the U.S.A. (Tr. at 31-32.) Providence, Rhode Island is Genexion, S.A.'s only office in the U.S.A. (Tr. at 32.) Dr. Grumser testified that, as a start-up company, Appellant experienced some financial difficulty in its first years, and there was much discussion about the finances of the company at the beginning of 2009. (Tr. at 34-35.)

[1] Section 28-14-4(b) of the Rhode Island General Laws provides that "[w]henever an employee separates or is separated from the payroll of an employer after completing at least one year of service, any vacation pay accrued or awarded by . . . any [] written [] agreement between employer and employee shall become wages and payable in full or on a prorated basis with all other due wages on the next regular payday for the employee."

Dr. Grumser testified that he prepared a report regarding payroll records after Ms. Lewis-Cullinan resigned (submitted as Resp't's Ex. 1), which he claimed reflected that she owed Appellant money because she granted herself pay increases that he did not directly approve. (Tr. at 37.) Dr. Grumser also submitted payroll records from November 2006 through October 2009 (Resp't's Ex. 2) in support of his developing argument that Ms. Lewis-Cullinan was overpaid, but the hearing officer made clear that the only issue before him was Ms. Lewis-Cullinan's claim for vacation wages. (Tr. at 41.) The hearing officer stated that he could not make any rulings regarding her salary and that this issue belonged in a different forum. Id. Dr. Grumser further testified that he did not receive any timesheets or time reports from Ms. Lewis-Cullinan in the last year and one-half of her employment. (Tr. at 43; Resp't's Ex. 3.) Dr. Grumser submitted timesheets (Resp't's Ex. 3) and an Employee Handbook written for Appellant by Ms. Lewis-Cullinan (Resp't's Ex. 4) as an offer of proof that Ms. Lewis-Cullinan was either not entitled to a payout of the number of vacation hours claimed or not entitled to a payout until she had returned some of Appellant's property.[2] (Tr. at 44-48.)

During cross-examination from Ms. Lewis-Cullinan's attorney, Dr. Grumser admitted that he countersigned Ms. Lewis-Cullinan's Employment Agreement and that the Employment Agreement provided that she was entitled to annual pay increases and five weeks of vacation time per year. (Tr. at 55-57.) Dr. Grumser also admitted that he was not familiar with the timesheet and payroll management system utilized by Appellant because he was "working in an environment of trust, . . . trusting that Carol will run the operations, uh, in the right way, and will report her time correctly." (Tr. at 52.) Dr. Grumser testified that he disputed the number of

[2] Dr. Grumser made allegations in his testimony that Ms. Lewis-Cullinan has improperly retained some of Appellant's intellectual and personal property, but the hearing officer reiterated that the only issue before him was the vacation pay and that respondent would have to pursue any issues regarding retained property in a different forum. (Tr. at 46-47.)

vacation hours claimed by Ms. Lewis-Cullinan for a "series of reasons," including her failure to return some of Appellant's property and her failure to properly report her time. (Tr. at 58-59.)

In response to questions from the hearing officer after Dr. Grumser completed his testimony, Ms. Lewis-Cullinan testified that, pursuant to her Employment Agreement, she had carried over four weeks of accrued vacation time from 2008 to 2009 and then was entitled to five weeks of vacation time in 2009. (Tr. at 66-69.) She testified that Dr. Grumser never requested, received, or signed a time sheet that she had completed. (Tr. at 71.) If she did not complete the weekly timesheet, she testified that another employee would record her hours. (Tr. at 71.) She also testified that she was still in the process of returning some intellectual and personal property items to Appellant and that some of the items were in her attorney's office and others were in Appellant's office space. (Tr. at 69-70.)

At the conclusion of the hearing, the hearing officer took the matter under advisement. (Tr. at 74.) The hearing officer issued a decision on February 23, 2011, awarding $14,637.89 to Ms. Lewis-Cullinan in previously unpaid vacation time pursuant to § 28-14-19 and instructed Appellant to pay $3659.47 (a 25% penalty) to the DLT. (Decision at 5.) The Appellant filed a timely appeal with this Court on March 24, 2011.

II

Standard of Review

The Administrative Procedures Act governs this Court's review of a final order from an administrative agency. Sec. 42-35-1, et seq.; Rossi v. Emps.' Ret. Sys. of R.I., 895 A.2d 106, 109 (R.I. 2006). Pursuant to § 42-35-15(g),

> "[t]he court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if

substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

"(1) In violation of constitutional or statutory provisions;
"(2) In excess of the statutory authority of the agency;
"(3) Made upon unlawful procedure;
"(4) Affected by other error or law;
"(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
"(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion." Sec. 42-35-15(g).

Accordingly, this Court "must uphold the agency's conclusions when they are supported by any legally competent evidence in the record." Rocha v. State Pub. Utils. Comm'n., 694 A.2d 722, 725 (R.I. 1997). Our Supreme Court has defined legally competent evidence as "some or any evidence supporting the agency's findings." Auto Body Ass'n of R.I. v. State of R.I. Dep't. of Bus. Regulation, 996 A.2d 91, 95 (R.I. 2010) (citation omitted). Another commonly cited definition for the phrase "legally competent evidence" is "relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means an amount more than a scintilla but less than a preponderance." Rhode Island Temps, Inc. v. Dep't. of Labor and Training, Bd. of Review, 749 A.2d 1121, 1125 (R.I. 2000) (quoting Ctr. for Behavioral Health, Rhode Island, Inc. v. Barros, 710 A.2d 680, 684 (R.I. 1998)); Arnold v. R.I. Dep't. of Labor and Training Bd. of Review, 822 A.2d 164, 167 (R.I. 2003) (also quoting Barros, 710 A.2d at 684). Overall, this Court is deferential to the factual determinations by the factfinder in an administrative proceeding. Rhode Island Temps, 749 A.2d at 1124 (citing Poisson v. Comtec Info. Sys., Inc., 713 A.2d 230, 233 (R.I. 1998)).

This Court must uphold the agency's conclusions even in cases where, after reviewing the entire certified record, the Court "might be inclined to view the evidence differently and draw different inferences from those of the agency below." Barrington Sch. Comm. v. Rhode Island

State Labor Relations Bd., 608 A.2d 1126, 1138 (R.I. 1992). This Court may '"reverse factual conclusions of administrative agencies only when they are totally devoid of competent evidentiary support in the record.'" Kachanis v. Bd. of Review, Dep't of Employment & Training, 638 A.2d 553, 556 (R.I. 1994) (quoting Milardo v. Coastal Res. Mgmt. Council, 434 A.2d 266, 272 (R.I. 1981)).

III

Analysis

Appellant argues that the hearing officer at DLT made both substantive and procedural errors and issued a decision that is arbitrary and capricious and lacking in supporting evidence. Procedurally, Appellant claims that the hearing officer erred by not allowing Appellant's representative, Dr. Grumser, to cross-examine Ms. Lewis-Cullinan during the hearing and by ruling that Dr. Grumser's allegations—that Ms. Lewis-Cullinan was improperly retaining some of Appellant's intellectual and personal property—were irrelevant to the issue of the vacation time payout. Substantively, Appellant argues that the decision should be reversed because (1) Ms. Lewis-Cullinan did not provide credible evidence that she is entitled to 225.06 hours of accrued vacation time; (2) Ms. Lewis-Cullinan did not provide any evidence regarding her rate of compensation for accrued vacation pay; and (3) the hearing officer failed to take the $5000 payout into account when he found that Ms. Lewis-Cullinan was entitled to 225.06 hours. Appellant submitted several exhibits in support of its arguments on appeal, including copies of documents that were submitted as exhibits during the January 13, 2011 hearing and documents that are not part of the administrative record.

The DLT argues that the hearing officer did not make any procedural or substantive errors either during the hearing or in its decision. DLT argues that the hearing officer did not

prevent Dr. Grumser from cross-examining Ms. Lewis-Cullinan. Rather, Dr. Grumser chose to provide his own testimony. DLT also argues that the hearing officer did not have jurisdiction to hear testimony regarding Appellant's allegations of improperly retained property because § 28-14-19 provides the DLT with authority to investigate allegations of nonpayment of wages only. DLT further argues that the hearing officer did not make any substantive errors because he had testimony and exhibits from each party and did take the $5000 payout into account before awarding $14,637.89 to Ms. Lewis-Cullinan. Ms. Lewis-Cullinan joined DLT's Memorandum In Opposition to Appeal.

As a threshold matter, Appellant submitted three documents with its brief that are not part of the certified record from DLT. These documents include correspondence between Ms. Lewis-Cullinan's counsel and Appellant's former counsel regarding some of Appellant's property retained by Ms. Lewis-Cullinan, a consulting agreement between Appellant and Ms. Lewis-Cullinan's niece, and a completed timesheet by Ms. Lewis-Cullinan's husband. This Court's review of DLT's decision is confined to the record created when this matter was before the agency. Sec. 42-35-15(f); see Nickerson v. Reitsma, 853 A.2d 1202, 1206 (R.I. 2004) (holding that a Superior Court justice exceeded his authority under the Administrative Procedures Act when he considered evidence outside the certified record). Therefore, the documents that Appellant submitted to this Court with its brief that were not submitted as exhibits during the hearing will not be considered by this Court because these additional documents are not part of the record that is on appeal before this Court. See id.

A

Procedural Challenges

1

Cross-Examination During The Hearing

With respect to Appellant's argument that he was improperly denied an opportunity to cross-examine Ms. Lewis-Cullinan during the hearing, Appellant argues that the hearing officer erred by not expressly explaining at the beginning of the hearing that each party would have an opportunity to cross-examine the other, as well as by subsequently denying Dr. Grumser the opportunity to cross-examine Ms. Lewis-Cullinan after Dr. Grumser had been cross-examined by Ms. Lewis-Cullinan's attorney. DLT counterargues that Dr. Grumser was not prohibited from cross-examining but instead decided to testify directly.

Pursuant to the rules of evidence provided within the Administrative Procedures Act, a party is entitled to conduct cross-examinations "required for a full and true disclosure of the facts." Sec. 42-35-10(3). At the same time, proceedings before an administrative agency have a "remarkably free rein and wide latitude in evidentiary matters" because the proceedings are not constrained by the same rules of evidence as those that govern cases heard by this Court. Foster-Glocester Reg'l. Sch. Comm. v. Bd. of Review, Dep't. of Labor and Training, 854 A.2d 1008, 1020 (R.I. 2004). The transcript from the January 13, 2011 administrative hearing reveals that Dr. Grumser was provided with several opportunities to ask questions of Ms. Lewis-Cullinan. For example, at the conclusion of Ms. Lewis-Cullinan's direct testimony, the hearing officer told Dr. Grumser that Ms. Lewis-Cullinan rested and asked him if he had any questions. (Tr. at 28.) Dr. Grumser replied that he was going to present "how [he] see[s] this case." (Tr. at 29.) Dr. Grumser was provided with another opportunity to ask Ms. Lewis-Cullinan some

questions towards the end of the hearing, after the hearing officer had concluded his questioning of this witness. (Tr. at 72.) Dr. Grumser provided additional testimony but did not attempt to ask her any questions. (Tr. at 73-74.)

The hearing officer did prevent Dr. Grumser from inserting his own conflicting testimony during Ms. Lewis-Cullinan's direct testimony (Tr. at 12) and provided instruction regarding the manner in which he could object to testimony or to an exhibit (Tr. at 13-14). Also, Ms. Lewis-Cullinan's attorney did ask the hearing officer whether, as a procedural matter, Dr. Grumser should be required to format his response to Ms. Lewis-Cullinan's testimony in the form of cross-examination (Tr. at 73). However, there is no indication in the transcript that Dr. Grumser attempted a cross-examination and was denied the opportunity to do so.

The presumption of validity that attaches to the actions of administrative agencies is rebuttable, but the burden of proof lies with the party who is challenging the agency's action. Alabama Nursing Home Ass'n. v. Harris, 617 F.2d 388, 393 (5th Cir. 1980). Here, Appellant has failed to demonstrate that he was denied an opportunity to present his full case to the hearing officer. Therefore, this Court finds that the hearing officer did not prevent Dr. Grumser from conducting cross-examination and did not make a procedural error such that substantial rights of the Appellant were prejudiced in this respect. See § 42-35-15(g); Harris, 617 F.2d at 393.

2

Allegations of Misappropriated Property

Appellant also appeals the hearing officer's decision on the basis that his ruling that Appellant's allegations regarding improperly retained company property were irrelevant to Ms. Lewis-Cullinan's claim for outstanding wages related to vacation time was erroneous. In support of this argument, Appellant relies on a case wherein the Supreme Court vacated an award of

summary judgment in favor of a former employee/plaintiff when the former employer/defendant had made counterclaims for breach of fiduciary duty and fraud because the primary claims and counterclaims were "inextricably intertwined." Lombari v. Scott Brass, Inc., 627 A.2d 330, 331 (R.I. 1993).

As DLT argues, the hearing officer did not err by refusing to consider Dr. Grumser's allegations regarding Appellant's property because the DLT's authority in this matter was limited to the complaint for the alleged non-payment of wages pursuant to § 28-14-19. Pursuant to § 28-14-19(a) and (c), the Director of Labor and Training's designee may investigate any alleged violations regarding the payment of wages and hold a hearing to determine how the issue should be resolved. The designee is to make a determination within thirty days of the close of the hearing and serve an order that shall either "dismiss the complaint or direct payment of any wages and/or benefits found to be due and/or award such other appropriate relief or penalties authorized." Sec. 28-14-19(c). Therefore, whether Ms. Lewis-Cullinan remains in possession of Appellant's property is not an issue that is within the DLT's statutory authority to adjudicate.

Moreover, Appellant's reliance on Lombari is misplaced. This case involved a civil trial and not an appeal pursuant to the Administrative Procedures Act. See 627 A.2d at 330. As our Supreme Court has noted, "[a]n administrative appeal and a civil trial differ greatly with respect to governing procedural rules, burdens of proof, and standards of review." Nickerson, 853 A.2d at 1205. Therefore, Appellant's allegations regarding its property still in Ms. Lewis-Cullinan's possession is not analogous to a well-pled counterclaim in a civil cause of action for fraud and breach of fiduciary duty. In addition, the hearing officer's duties at the administrative hearing are not analogous to the Superior Court justice's summary judgment standard of review. See Lombari, 627 A.2d 331. Based on the limited authority of the DLT under § 28-14-19 and the

limited issue of the non-payment of wages under § 28-14-4, this Court finds that the hearing officer not considering testimony related to Appellant's allegations of misappropriated company property was neither in excess of his statutory authority nor in violation of statutory provisions.

B

Substantive Challenges

Appellant also appeals the hearing officer's decision based on the purported lack of competent evidence to support the determination that Ms. Lewis-Cullinan is entitled to $14,637.89 as a payout for her accrued vacation time. Appellant argues that there was no credible evidence that Ms. Lewis-Cullinan had accrued 225.06 hours in vacation time; that there was no evidence to support the hourly rate at which the vacation time was paid out; and the hearing officer's finding that Ms. Lewis-Cullinan was entitled to a payout of 225.06 hours of vacation time was in error because she acknowledged receiving a partial payout in the amount of $5000.

In response, DLT points out that the hearing officer heard testimony from both sides regarding the amount of accrued vacation time and accepted exhibits from both sides on this issue. DLT argues that Appellant did not submit any evidence to show that Ms. Lewis-Cullinan's hourly rate of pay was different from the $87.26 per hour that she cited in her Complaint Form. See Pet'r's Ex. 1. The hearing officer heard testimony in which Ms. Lewis-Cullinan acknowledged receiving one $5000 check towards a payout for the outstanding vacation time claim owed to her. While DLT acknowledges that the decision incorrectly stated that Ms. Lewis-Cullinan was still owed 225.06 hours, it points out that the hearing officer followed the mathematics calculated by Ms. Lewis-Cullinan on her Complaint Form. The Complaint Form

demonstrates that the $14,637.89 claimed was calculated by multiplying 167.76 hours by $87.26 per hour.[3]

In his decision, the hearing officer made several explicit findings of fact to support his award of the full amount of accrued vacation time that Ms. Lewis-Cullinan claimed on her Complaint Form. The hearing officer based the award on his findings of fact derived from the Employment Agreement that provided Ms. Lewis-Cullinan with five weeks of vacation per year, four of which could be carried over to the following year. (Decision at 4; Pet'r's Ex. 2.) The hearing officer considered the Employee Handbook (Resp't's Ex. 4) that contained a different vacation pay policy, but found that the terms of the Employment Agreement would control because the Employment Agreement was not amended subsequent to the completion of the Employee Handbook. Additionally, the hearing officer found that Ms. Lewis-Cullinan submitted credible evidence that she had accrued 225.06 hours of vacation time at the time of her resignation and that the payroll records submitted by Appellant did not conflict with Ms. Lewis-Cullinan's claim. (Decision at 4-5.)

This Court finds that the hearing officer's decision is supported by legally competent evidence in the record. See Auto Body Ass'n. of R.I., 996 A.2d at 95; Rhode Island Temps, 749 A.2d at 1125; Rocha, 694 A.2d at 725. As specifically noted in the decision, § 4.3 of the Employment Agreement clearly provided Ms. Lewis-Cullinan with five weeks of vacation time per year and permitted her to carry over a maximum of four weeks from year to year. (Pet'r's Ex. 2.) Section 6.1 of the Employment Agreement clearly provided that, upon termination, any accrued vacation time would be paid in a lump sum within thirty days after the date of

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[3] The award of $14,637.89 is a slight miscalculation that works in Appellant's favor. The product of 167.76 hours multiplied by $87.26 per hour is actually $14,638.74. The amount awarded is $0.85 less.

termination or "as otherwise provided by law." Id. This section of the Employment Agreement is in accordance with Rhode Island law, which provides that accrued vacation pay awarded pursuant to a written agreement between an employer and employee shall become wages upon separation of the employee from the employer and shall be payable in full or on a prorated basis with all other due wages on the next regular payday for the employee. Sec. 28-14-4(b).

The only evidence on the record of the vacation time accrued by Ms. Lewis-Cullinan was the parties' testimony and the paystubs submitted by Ms. Lewis-Cullinan as petitioner's exhibits 4A and 4B. Ms. Lewis-Cullinan admitted that she had received one payment of $5000 towards a payout of her accrued vacation time. (Tr. at 26-28; Pet'r's Exs. 1, 4B.) Ms. Lewis-Cullinan's Complaint Form requested the remainder of her accrued vacation hours; 167.76 hours at the rate of $87.26 per hour. (Pet'r's Ex. 1.) Appellant did not provide any testimony or evidence at the hearing to demonstrate that fewer than 225.06 hours were accrued or that Ms. Lewis-Cullinan did not accurately report her hourly rate on the Complaint Form. The payroll records and timesheets submitted by Appellant (Resp't's Exs. 2, 3) do not show information with respect to PTO.

A reasonable mind would accept the evidence on the record to support the conclusion that Ms. Lewis-Cullinan is entitled to a payout of the accrued vacation time reflected on the documents submitted at the hearing. See Rhode Island Temps, 749 A.2d at 1125 (stating that this Court must defer to the findings of fact made pursuant to an administrative hearing); Rocha, 694 A.2d at 725 (stating that this Court must uphold administrative agency decisions that are made based on legally competent evidence). This Court finds that competent evidence exists to support the hearing officer's decision, and therefore, must uphold the hearing officer's decision.

IV

CONCLUSION

After review of the entire record, this Court finds the hearing officer's decision was not in violation of constitutional or statutory provisions; in excess of DLT's statutory authority; affected by error or law; made upon unlawful procedure; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion. Substantial rights of the Appellant have not been prejudiced. Accordingly, the hearing officer's decision of February 23, 2011 is affirmed.

Counsel shall prepare the appropriate order for entry.

RHODE ISLAND SUPERIOR COURT
Decision Addendum Sheet

TITLE OF CASE:	**Genexion, Inc. v. Rhode Island Department of Labor and Training, Division of Labor Standards and Carol A. Lewis-Cullinan**
CASE NO:	**PC-2011-1625**
COURT:	**Providence County Superior Court**
DATE DECISION FILED:	**September 3, 2014**
JUSTICE/MAGISTRATE:	**McGuirl, J.**
ATTORNEYS:	
For Plaintiff:	**Daniel T. Angelone, Esq.** **Patricia E. Andrews, Esq.**
For Defendant:	**Mary Ellen McQueeney-Lally, Esq.** **Michael L. Mineau, Esq.**