

IN THE UTAH COURT OF APPEALS

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Ryan Andrew Brucks,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioner,)		
)	Case No. 20100614-CA	
v.)		
)		
Department of Workforce)	F I L E D	
Services,)	(November 4, 2010)	
)		
Respondent.)	<table border="1"><tr><td>2010 UT App 312</td></tr></table>	2010 UT App 312
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Original Proceeding in this Court

Attorneys: Ryan Andrew Brucks, Bozeman, Montana, Petitioner Pro
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Suzan Pixton, Salt Lake City, for Respondent

Before Judges Davis, McHugh, and Voros.

PER CURIAM:

Petitioner Ryan Andrew Brucks seeks judicial review of decisions of the Workforce Appeals Board (the Board) disqualifying him from receiving unemployment compensation benefits because he quit his employment without good cause and assessing a fault overpayment. In a separate decision, the Board imposed an additional fault overpayment based upon his failure to report vacation and severance pay he received after separation from employment.

"It is the province of the Board, not appellate courts, to resolve conflicting evidence, and where inconsistent inferences can be drawn from the same evidence, it is for the Board to draw the inferences." Grace Drilling Co. v. Board of Review, 776 P.2d 63, 68 (Utah Ct. App. 1989). "It is not our role to judge the relative credibility of witnesses." Albertsons, Inc. v. Department of Emp't Sec., 854 P.2d 570, 575 (Utah Ct. App. 1993). We reverse an administrative agency's findings of fact "only if the findings are not supported by substantial evidence." Drake v. Industrial Comm'n, 939 P.2d 177, 181 (Utah 1997). We will not disturb the Board's conclusion regarding the application of law to facts unless it "exceeds the bounds of reasonableness and

rationality." Nelson v. Department of Emp't Sec., 801 P.2d 158, 161 (Utah Ct. App. 1990).

The Administrative Law Judge (ALJ) accepted the employer's version of the facts regarding the separation from employment. Brucks's field supervisor testified that he did not agree that Brucks would be laid off and did not recall a conversation in which Brucks made that request. Furthermore, the determination whether a separation is a discharge or a quit is dependent upon who initiated the separation. See Utah Admin. Code R994-405-101 ("A separation is considered voluntary if the claimant was the moving party in ending the employment relationship."). It is undisputed that Brucks initiated the separation. Brucks told the field supervisor that he did not want to remain employed due to problems Brucks had with his direct supervisor, as well as other personal reasons. The field supervisor testified that he considered Brucks to be a good employee and was willing to work with him to keep him employed. Even if the employer had agreed to characterize the separation as a lay off, it remains the obligation of the Department of Workforce Services to "determine the reason for the separation." Id. R994-405-1.

The Board's finding that Brucks quit his employment is supported by substantial evidence. To be eligible for benefits after quitting employment, a claimant must demonstrate good cause. See Utah Code Ann. § 35A-4-405(1) (Supp. 2009) (providing that a claimant who leaves work voluntarily without good cause is disqualified from receiving benefits). This requires a showing that the hardship as a result of remaining employed is sufficiently adverse to outweigh the benefits of remaining employed. See Utah Admin. Code R994-405-102(1)(a). Thus, the employee must demonstrate "actual or potential physical, mental, economic, personal, or professional harm caused or aggravated by the employment," id., that is beyond the control of the employee, see id. R994-405-102(1)(b). The only testimony addressing good cause concerned the problems Brucks had with his direct supervisor. However, the employer responded to past complaints about this supervisor by suspending the supervisor, and it was monitoring his behavior.

Brucks's only claim before this court is that the employer agreed to report the separation as a lay off so he could collect unemployment. There was no testimony indicating that there was a lack of work necessitating a reduction in force. Brucks was an employee in good standing who quit because he did not want to remain employed, but he hoped to extract an agreement from the employer to allow him to collect unemployment benefits. Under the circumstances, the Board's further decision that standards of equity and good conscience did not support granting benefits was also reasonable and rational.

We affirm both decisions of the Board disqualifying Brucks from receiving benefits because he quit without good cause and assessing an overpayment.

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge

J. Frederic Voros Jr., Judge