

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

**IN AND FOR THE NEW CASTLE COUNTY**

ANGELA D. HUSFELT, )  
 )  
 Appellant, )  
 )  
 v. ) C.A. No. 07A-07-005 JRS  
 )  
 THE MARY CAMPBELL CENTER, )  
 and UNEMPLOYMENT INSURANCE )  
 APPEAL BOARD, )  
 )  
 Appellees. )

Date Submitted: March 17, 2008

Date Decided: June 25, 2008

*Upon Appeal from the  
Unemployment Insurance Appeal Board.*

**AFFIRMED**

**ORDER**

This 25<sup>th</sup> day of June 2008, upon consideration of the appeal of Angela D. Husfelt (“Husfelt”), from a decision of the Unemployment Insurance Appeal Board (the “Board”) denying her claim for unemployment benefits against her former employer, the Mary Campbell Center, Inc. (“MCC”), it appears to the Court that:

1. Husfelt was employed as a certified activities assistant with MCC from September 9, 2005 until March 1, 2007, when she was terminated.<sup>1</sup> MCC terminated Ms. Husfelt based on two separate incidences involving alleged falsification of her time card and intentional misconduct.<sup>2</sup> On February 18, 2007, Husfelt arrived late to work and forgot to clock in.<sup>3</sup> At 12:49 that afternoon, Ms. Husfelt called into the MCC and asked another MCC employee to clock in for her. The employee did so and the time card reflected a 12:49 p.m. “clock in time” for Ms. Husfelt. At the end of that day, Ms. Husfelt asked another MCC employee to cross out the 12:49 p.m. and insert 10:00 a.m. as her “clock-in time.”<sup>4</sup> The other employee complied and altered the time card.

2. On February 24, 2007, Ms. Husfelt transported MCC residents, staff and volunteers in an MCC vehicle to Atlantic City. While en route, Ms. Husfelt encountered a traffic control officer at an intersection. The officer instructed Ms. Husfelt to turn, but Ms. Husfelt refused and called the officer a “skank.”<sup>5</sup> Ms. Husfelt had been disciplined by MCC for two similar incidents in 2006.<sup>6</sup> During one incident,

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<sup>1</sup>Docket Item (“D.I.”) 5 at 2, 42.

<sup>2</sup>D.I. 5 at 5, 16.

<sup>3</sup>D.I. 5 at 5.

<sup>4</sup>D.I. 5 at 35, 43-44, 85-86.

<sup>5</sup>D.I. 5 at 5, 44, 52.

<sup>6</sup>D.I. 5 at 79.

Ms. Husfelt was rude and disrespectful to a resident. During the other incident, Ms. Husfelt called a fellow MCC employee a “bitch.”<sup>7</sup> For each of the 2006 incidents, Ms. Husfelt received written notice of the disciplinary action taken.<sup>8</sup> Ms. Husfelt signed the incident report regarding her behavior toward the resident, but refused to sign the report concerning the incident with the fellow employee.<sup>9</sup>

3. At the hearing before the Board, Debra Franklin (“Ms. Franklin”), the MCC representative, testified that Ms. Husfelt was interviewed regarding the two recent instances that led to her termination and asked for her input.<sup>10</sup> According to Ms. Franklin, Ms. Husfelt was suspended pending the investigation into the incidents.<sup>11</sup> Based upon the facts gathered during the investigation and the seriousness of the violations, the MCC decided to terminate Ms. Husfelt.<sup>12</sup>

4. Ms. Husfelt filed for unemployment compensation with the Delaware Department of Labor (“DOL”) on March 3, 2007.<sup>13</sup> On April 4, 2007, a Claims Deputy for the DOL determined that the MCC terminated Ms. Husfelt for wanton and

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<sup>7</sup>*Id.*

<sup>8</sup>D.I.5 at 69, 70.

<sup>9</sup>*Id.*

<sup>10</sup>D.I. 5 at 79.

<sup>11</sup>*Id.*

<sup>12</sup>*Id.*

<sup>13</sup>D.I. 5 at 20.

willful misconduct constituting just cause.<sup>14</sup> Pursuant to 19 *Del. C.* § 3314(2), this finding disqualified Ms. Husfelt from receiving unemployment compensation.<sup>15</sup>

5. On April 13, 2007, Ms. Husfelt appealed the Claims Deputy's decision to the Appeals Referee. After a hearing, the Appeals Referee issued his decision on May 23, 2007, reversing the Claims Deputy's determination that Ms. Husfelt was terminated for just cause. The Referee explained in her decision that while Ms. Husfelt's "actions were certainly inappropriate in both incidents and she certainly may have exercised poor judgment," her conduct did not "rise to the level of willful or wanton misconduct."<sup>16</sup> As a result, the Appeals Referee concluded that Ms. Husfelt was entitled to unemployment compensation.<sup>17</sup>

6. On June 1, 2007, the MCC appealed the Referee's decision to the Board and a hearing was held on June 27, 2007. The Board issued its decision on July 6, 2007, reversing the Referee's decision upon concluding that Ms. Husfelt's actions gave the MCC just cause for termination because the misconduct was willful and

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<sup>14</sup>D.I. 5 at 22.

<sup>15</sup>19 *Del. C.* §3314(2) states that:

An individual shall be disqualified for benefits: For the week in which the individual was discharged from the individual's work for just cause in connection with the individual's work and for each week thereafter until the individual has been employed each of 4 subsequent weeks..

<sup>16</sup>D.I. 5 at 30.

<sup>17</sup>*Id.*

wanton. In making its determination, the Board applied a two part test that examines whether or not an employee conduct policy existed and, secondly, whether the employee was aware of the policy.<sup>18</sup> In support of its decision, the Board relied upon the MCC's employee handbook, which indicates that altering timecards or records and disorderly/antagonistic conduct on company premises are deemed policy violations and may result in immediate termination.<sup>19</sup> The Board also relied upon proof that Ms. Husfelt had acknowledged her understanding of these conditions of employment, as indicated by her signature on an employee intake form.<sup>20</sup> Additionally, the Board considered the previous disciplinary proceedings in which Ms. Husfelt had been involved as further evidence of her knowledge of company policies and procedures. Finally, the Board considered Ms Husfelt's testimony at the hearing, during which she admitted to altering her time card and to calling the traffic officer a "skank" in the presence of MCC residents.<sup>21</sup>

7. On appeal to this Court, Ms. Husfelt challenges the MCC's decision to terminate her and argues that the reasons MCC provided for her termination were "unjust."<sup>22</sup> The MCC responds that the Board's decision to deny Ms. Husfelt

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<sup>18</sup>D.I. 5 at 67 (citing *McCoy v. Occidental Chemical Corp.*, 1996 WL 111126 (Del.Super.Ct. Feb. 7, 1996)).

<sup>19</sup>D.I. 5 at 67.

<sup>20</sup>D.I. 31.

<sup>21</sup>D.I. 5 at 53, 54, and 56.

<sup>22</sup>D.I. 9.

unemployment compensation was legally correct and supported by substantial evidence.

8. This Court repeatedly has emphasized the limited extent of its appellate review of administrative determinations. The Court's review is confined to ensuring that the hearing officer made no errors of law and determining whether "substantial evidence" supports the hearing officer's factual findings.<sup>23</sup> Questions of law that arise from the hearing officer's decision are subject to *de novo* review, pursuant to Superior Court Civil Rule 3(c), which requires the Court to determine whether the hearing officer erred in formulating or applying legal precepts.<sup>24</sup> Substantial evidence means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."<sup>25</sup> It is "more than a scintilla but less than a preponderance of the evidence."<sup>26</sup> The "substantial evidence" standard of review contemplates a significant degree of deference to the hearing officer's factual conclusions and its application of those conclusions to the appropriate legal standards.<sup>27</sup> In its review, the Court will consider the record in the light most favorable to the prevailing party below.<sup>28</sup>

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<sup>23</sup>*Canyon Const. v. Williams*, 2003 WL 1387137, at \*1 (Del. Super. Ct. Mar. 5, 2003); *Hall v. Rollins Leasing*, 1996 WL 659476, at \*2-3 (Del. Super. Ct. Oct. 4, 1996).

<sup>24</sup>See *Anchor Motor Freight v. Ciabattoni*, 716 A.2d 154, 156 (Del. 1998); *Hudson v. State Farm Mut. Ins. Co.*, 569 A.2d 1168, 1170 (Del. 1990).

<sup>25</sup>*Breeding v. Contractors-One, Inc.*, 549 A.2d 1102, 1104 (Del. 1998).

<sup>26</sup>*Id.*

<sup>27</sup>*Hall*, 1996 WL 659476, at \*2 (citing DEL. CODE ANN. tit. 29, § 10142(d)).

<sup>28</sup>*General Motors Corp. v. Guy*, 1991 WL 190491, at \*3 (Del.Super.Ct. Aug. 16, 1991).

9. Pursuant to 19 *Del. C.* § 3314, an employee is disqualified from receiving unemployment compensation if she is discharged for just cause. Just cause is defined as “a willful or wanton act or pattern of conduct in violation of the employer’s interest, the employee’s duties, or the employee’s expected standard of conduct.”<sup>29</sup> “Willful and wanton conduct is that which is evidenced by either conscious action, or reckless indifference leading to a deviation from established and acceptable workplace performance.”<sup>30</sup> There is no requirement that the conduct be performed with bad motive or malice.<sup>31</sup>

10. The record before the Board contained the “Standards of Conduct” for MCC employees as laid out in the employee manual. According to the manual, employees “have a responsibility to the Center, the residents, and your fellow employees to adhere to certain rules of behavior and conduct.”<sup>32</sup> The manual makes clear that a violation of these rules of behavior could result in immediate dismissal without warning.<sup>33</sup> Among these rules was one that prohibited an employee from altering or causing someone to alter the employee’s timecard.<sup>34</sup> Another rule forbade

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<sup>29</sup>*Avon Products, Inc. v. Wilson*, 513 A.2d 1315 (Del. 1986).

<sup>30</sup>*MRPC Financial Management, LLC v. Carter*, 2003 WL 21517977, \*4 (Del. Super. 2003).

<sup>31</sup>*Coleman v. Department of Labor*, 288 A.2d 285, 288 (Del. Super. 1972).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup>D.I. 5 at 67

obscene or abusive language and disorderly or antagonistic conduct on company premises. A document presented as evidence to the Board contained Ms. Husfelt's signature, acknowledging her receipt of the manual. The previous disciplinary actions taken against Ms. Husfelt also indicated her knowledge and understanding of the standard of conduct expected of her during her employment with the MCC. Additionally, Ms. Husfelt admitted to her behavior in connection with each incident that led to her termination.<sup>35</sup>

11. Based on the foregoing, the Court is satisfied that the Board applied the correct legal standards and that its decision is supported by substantial evidence. Accordingly, the decision of the Board denying Ms. Husfelt unemployment compensation must be **AFFIRMED**.

**IT IS SO ORDERED.**

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Judge Joseph R. Slights, III

Original to Prothonotary

cc: Angela D. Husfelt  
Michael Stafford, Esquire

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<sup>35</sup> The Court is satisfied that MCC's proffered "just cause" for terminating Ms. Husfelt satisfies the "heightened scrutiny" called for in *Vann v. Town of Cheswold*, 945 A.2d 1118, 1122 (Del. 2008).