

SUPERIOR COURT
OF THE
STATE OF DELAWARE

JOHN A. PARKINS, JR.
JUDGE

NEW CASTLE COUNTY COURTHOUSE
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WILMINGTON, DELAWARE 19801-3733
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Dr. Allan Wong
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Philadelphia, PA 19148
Employee Below/ Appellant

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**Re: Allan Wong v. SL Pharma Labs, Inc. and the
Unemployment Insurance Appeal Board
C.A. No. 08A-08-013 JAP**

Submitted: April 22, 2009
Decided: April 28, 2009

On Appeal from a Decision of the Unemployment Insurance Appeal Board
AFFIRMED.

Dear Dr. Wong and Mr. Stafford,

Before the Court is Dr. Allan Wong's appeal from a decision of the Unemployment Insurance Appeal Board (the "Board"), which held that Dr. Wong was disqualified from the receipt of unemployment benefits. Because

the Board's decision is supported by substantial evidence and free from legal error, the decision of the Board is **AFFIRMED**.

I. FACTS AND PROCEDURAL HISTORY

SL Pharma Labs employed Dr. Wong as an analytical and quality control manager from April 30, 2007 through January 3, 2008. On Thursday, January 3, 2008, Dr. Wong attended a meeting with Dr. Lautenbacker, his supervisor, and Dr. Sheikh, the president of SL Pharma Labs. During the meeting, there was a disagreement over the management of electronic files, which culminated with Dr. Lautenbacker calling Dr. Wong an "asshole." After the meeting Dr. Wong spoke with Dr. Sheikh. According to Dr. Sheikh, Dr. Wong said that he was not coming to work anymore until Dr. Lautenbacker was let go. Dr. Wong, however, denies that he threatened to quit.

That evening, Dr. Wong emailed Dr. Sheikh from home and told him that he was taking the following day off as a personal day. Dr. Sheikh responded on January 4:

I have been thinking about your desire (you expressed) to not to directly report to [Dr. Lautenbacker]. There may be a way around to do it! If you wish we can talk further on this subject. Come and see me today (Friday) to explore this further.¹

¹ Record, at 45.

Dr. Wong did not go to see Dr. Sheikh. Instead, on January 5, Dr. Wong sent an email to the entire company stating that Dr. Lautenbacher “must apologize to me and top management need to take disciplinary action. Otherwise I would have to take action on my own.”²

Dr. Sheikh again emailed Dr. Wong on January 9 stating that Dr. Lautenbacher had apologized to the entire staff for his inappropriate comment and inviting Dr. Wong to set up a meeting to discuss the situation. Dr. Wong did not accept the offer to meet, nor did he attempt to return to work until January 15, at which time he discovered that the locks to the building had been changed. On January 16, Dr. Sheikh emailed Dr. Wong stating:

[Y]ou elected to leave the job on your own accord on January 3, 2008 and have failed to report to work since then. You have been absent from work during all this time without management approval . . . For your continued employment at SL Pharma Labs, we must have a written commitment from you to work cooperatively with the senior management and must respect and comply with company policies/procedures. Further, in light of your continued unsatisfactory job performance in the area of people skills and in managing and developing assigned staff (a critical part of a Manager’s job), your job responsibilities and duties will be changed from management to technical, should you want to continue your employment at SL Pharma Labs.³

Mr. Wong filed a claim for unemployment benefits with the Division of Unemployment Insurance on February 24, 2008. The Claims Deputy determined that Mr. Wong voluntarily quit without good cause as provided

² *Id.* at 44.

³ *Id.* at 47-48.

in 19 *Del. C.* § 3314(1), and therefore, that he was disqualified from the receipt of unemployment benefits.⁴

Dr. Wong filed a timely appeal to the Appeal's Referee, who affirmed the decision of the Claims Deputy. Dr. Wong then filed an appeal from the Referee's decision to the Board. The Board affirmed the Referee's decision, stating that:

The evidence did not support the Claimant's contention that he was fired by the Employer. It is clear that the Employer, Dr. Sheikh, reached out to the Claimant, in an attempt to resolve the dispute with Dr. Lautenbacher . . . the Employer tried in good faith to deal with his concerns, and to meet him "halfway," but the Claimant simply declined to pursue a remedy, and elected to leave instead.⁵

The Board held that Dr. Wong did not meet "his burden of proving good cause for quitting work, and, therefore, the claimant is disqualified from the receipt of unemployment benefits."⁶ Thereafter, Dr. Wong filed the present appeal, *pro se*, in this Court.

II. STANDARD OF REVIEW

The Supreme Court and this Court have repeatedly emphasized the limited appellate review of the factual findings of an administrative agency.

⁴ 19 *Del. C.* § 3314(1) states that "[a]n individual shall be disqualified from benefits: (1) For the week in which the individual left work voluntarily without good cause attributable to such work and for each week thereafter until the individual has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned wages in covered employment equal to not less than 4 times the weekly benefit amount.

⁵ R. at 93.

⁶ *Id.*

On appeal from a decision of the UIAB, the appellate court is limited to a determination of whether there is substantial evidence in the record sufficient to support the Board's findings, and that such findings are free from legal error.⁷ Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.⁸ The reviewing court does not weigh the evidence, determine questions of credibility, or make its own factual findings.⁹ If the Board's decision is supported by substantial evidence, the Court must sustain the decision, even if the Court might have, in the first instance, reached an opposite conclusion.¹⁰

III. DISCUSSION

Under Delaware law, a person who voluntarily leaves work without good cause is not eligible to receive unemployment compensation.¹¹ It is the claimant's burden to demonstrate good cause for voluntarily leaving employment.¹² Good cause cannot be established merely because of an

⁷ *Ingram v. Barrett's Business Service, Inc.*, 794 A.2d 1160 (Del. 2007).

⁸ *Reeves v. Conmac Security*, 2006 WL 496136, at *3 (Del. Super.).

⁹ *Unemployment Ins. Appeal Bd. v. Division of Unemployment Ins.*, 803 A.2d 931, 937 (Del. 2002).

¹⁰ *Reeves*, 2006 WL 496136, at *3.

¹¹ 19 Del. C. § 3314(1).

¹² *Shaw-Malachi v. City of Wilmington/Finance*, 2006 WL 1875519, at *3 (Del. Super.).

undesirable work environment.¹³ Furthermore, a claimant must “do something akin to exhausting his administrative remedies by, for example, seeking to have the situation corrected.”¹⁴

There was sufficient evidence in this case from which the Board could find that Dr. Wong voluntarily left his job without good cause. After the incident on January 3, 2008, Dr. Wong asked to take January 4 as a personal day. It was over a week later, however, that Dr. Wong finally attempted to return to work. Dr. Sheikh reached out to Dr. Wong on multiple occasions in attempt to resolve the dispute with Dr. Lautenbacker, but Dr. Wong never accepted Dr. Sheikh’s offers to meet and discuss the situation.

A review of the record fully supports the Board’s conclusion that Dr. Wong “was provided with opportunities and alternatives.”¹⁵ Despite these opportunities, Dr. Wong “refused to negotiate” and “elected to leave.”¹⁶ Under these circumstances, he has not demonstrated “good cause” and is therefore not entitled to unemployment benefits.

¹³ *Id.* (“The environment must be one that justifies to a reasonable person that becoming unemployed is the only alternative.”).

¹⁴ *Abbasi v. Oscar A. Fuller Co.*, 2008 WL 803055 (Del. Super.) (quoting *O’Neal’s Bus Serv., Inc. v. Employment Sec. Comm’n*, 269 A.2d 247, 249 (Del. 1970)).

¹⁵ R. at 93.

¹⁶ *Id.*

IV. CONCLUSION

For the reasons stated above, the decision of the Board is

AFFIRMED.

IT IS SO ORDERED.

Very truly yours,

oc: Prothonotary
cc: Dan Logan, Esquire