

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

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|---------------------------|---|--------------------------|
| GENEVA JACKSON-MILLS, |) | |
| |) | |
| Appellant, |) | |
| |) | |
| v. |) | C.A. No. N12A-01-017 JRJ |
| |) | |
| CARTER RACING STABLES AND |) | |
| UNEMPLOYMENT INSURANCE |) | |
| APPEAL BOARD, |) | |
| |) | |
| Appellees. |) | |

OPINION

Date Submitted: June 1, 2012

Date Decided: July 25, 2012

*Upon Appeal from the Unemployment Insurance Appeal Board: **AFFIRMED***

Geneva Jackson-Mills, *Pro se*, 2805 W. 2nd Street, Wilmington, DE 19805.

Caroline L. Cross, Esquire, Deputy Attorney General, Carvel State Office Building, 820 North French Street, 6th Floor, Wilmington, DE 19801, Attorney for Unemployment Insurance Appeal Board.

Jurden, J.

I. INTRODUCTION

Before the Court is Geneva Jackson’s (“Claimant”) appeal from the Unemployment Insurance Appeal Board (the “Board”). Claimant argues that the Board committed error when it affirmed the Appeals Referee’s (“Referee”) decision to disqualify her from unemployment benefits. For the reasons that follow, the Court finds that the Board’s decision is supported by substantial evidence and free from legal error, and therefore, the Board’s decision is **AFFIRMED**.

II. FACTS AND PROCEDURAL HISTORY

Claimant worked for Carter Racing Stables (“Employer”) as a housekeeper from May 2007 to February 4, 2011.¹ On May 22, 2011, Claimant filed for unemployment benefits, claiming that back pain and carpal tunnel syndrome prevented her from working any longer.² On June 15, 2011, the Claims Deputy at the Department of Labor disqualified Claimant from receiving unemployment benefits, finding that she voluntarily left work without good cause.³ On June 20, 2011, Claimant appealed the Claims Deputy’s decision to the Referee, arguing that

¹ Record (“R.”) at 78.

² *Id.* at 4.

³ *Id.* at 14. 19 *Del.C.* § 3314(1) provides: “An individual shall be disqualified for 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”

she did not voluntarily quit her job.⁴ Claimant maintains that she was waiting for her physician to give her medical clearance to work.⁵ At the hearing, a witness for Employer, Donald Ratledge, testified that he held open Claimant's position as a housekeeper until the position had to be filled in April 2011.⁶ By then, Claimant's doctor still had not cleared her to return to work.⁷ Claimant provided five notes on "prescription forms" stating that she was "unable to do her job as a housekeeper and was totally disabled until August 30, 2011."⁸ Claimant also produced a letter, dated September 1, 2011, that restricted Claimant from returning to any work, with no end date provided for her return.⁹ On October 26, 2011, the Referee affirmed, but modified the Claims Deputy's decision, finding that Claimant did not voluntarily quit without good cause but was nonetheless disqualified from receiving unemployment benefits pursuant to 19 *Del. C.* § 3314(8) because Claimant "was unemployed as a result of her physical inability to work without restriction in her identifiable labor market."¹⁰

⁴ R. at 79.

⁵ *Id.* Claimant also argued that she did not quit because her employer promised to hold her position open until she could return, and while awaiting medical clearance to return to work as a housekeeper, she looked for work which did not involve pulling, lifting, and bending. *Id.*

⁶ *Id.* at 78.

⁷ *Id.* at 115.

⁸ *Id.* at 78.

⁹ *Id.* at 78-79.

¹⁰ *Id.* at 79-80. 19 *Del.C.* § 3314(8) provides: "An individual shall be disqualified for benefits: If it shall be determined by the Department that total or partial unemployment is due to the individual's inability to work. Such

On January 31, 2012, Claimant appealed the Referee's decision to the Board, arguing that she qualifies for unemployment benefits because she is not so disabled that she cannot work at all.¹¹ As of November 2011, Claimant's doctor released her to return to work with limitations on sitting, standing, lifting, and pulling.¹² On January 27, 2012, the Board affirmed the Referee's decision, finding that Claimant remained disqualified because Claimant's physical limitations, such as the inability to lift or pull 20 pounds, made her ineligible for unemployment benefits.¹³ The Board reasoned that "unemployment insurance is not health insurance, and its benefits are not available to those unable to or unavailable for work due to medical reasons."¹⁴ The Board determined that Claimant still had significant physical restrictions which prohibited Claimant from returning to her job as a housekeeper.¹⁵

disqualification to terminate when the individual becomes able to work and available for work as determined by a doctor's certificate and meets all other requirements under this title." The Referee reasoned that 19 *Del. C.* § 3314(8) explicitly mandates that, "if an individual's unemployment is due to an inability to work, that individual will be disqualified from receiving unemployment benefits" R. at 79.

¹¹ R. at 113.

¹² *Id.* at 115.

¹³ *Id.*

¹⁴ *Id.* at 114 (citing *Morris v. U.I.A.B.*, 340 A.2d 162, 163 (Del. Super. 1975)).

¹⁵ *Id.* at 115.

III. STANDARD OF REVIEW

When reviewing the Board’s decision, this Court must determine whether the Board’s findings are supported by substantial evidence and free from legal error.¹⁶ Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”¹⁷ In reviewing the record for substantial evidence, the Court considers the record in the light most favorable to the party prevailing below.¹⁸ This Court does not weigh the evidence, determine questions of credibility, or make factual conclusions.¹⁹

IV. DISCUSSION

Whether Claimant is disqualified from receiving unemployment benefits pursuant to 19 *Del. C.* § 3314(8) turns on whether her “unemployment is due to ... [her] ... inability to work.”²⁰ A claimant’s disqualification will end “when the individual ... [is] able ... and available for work as determined by a doctor’s certificate”²¹ Under 19 *Del. C.* § 3314(8), an employee who is restricted from performing *normal job* duties by a doctor due to a physical condition is considered

¹⁶ *Brown v. Unemployment Ins. Appeal Bd*, 2011 WL 863310, *1 (Del. Super.).

¹⁷ *Byrd v. Westaff USA, Inc.*, 2011 WL 3275156, *1 (Del. Super.) (citing *Oceanport Indus., Inc. v. Wilmington Stevedores, Inc.*, 636 A.2d 892, 899 (Del.1994)).

¹⁸ *Drewry v. Air Liquide-Medal, LLC*, 2011 WL 6400550, *1 (Del. Super.).

¹⁹ *Byrd*, 2011 WL 3275156, *1 (citing *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del 1965)).

²⁰ *Brown*, 2011 WL 863310 at *2.

²¹ *Id.*

to be “unable to work” within the meaning of the statute.²² Thus, to be considered as “able and available for work,” Claimant must present documentation or testimony from her doctor indicating that she is released to go back to work *without restriction*.²³ Claimant did not do that here.

As of April 2011, Claimant could not return to work in the requisite capacity to work as a housekeeper. During Claimant’s Board hearing, she presented three pieces of medical documentation that allowed her to return to work in a limited capacity.²⁴ The third and final document, dated November 18, 2011, stated that Claimant “may return to work *but should not lift or pull greater than 20 pounds, should not walk or stand for a prolonged period[s] of time and may not climb ladders or squat*.”²⁵ Claimant testified that as a housekeeper she worked in a mansion for eight hours a day, two days a week, performing, among other tasks, laundry, vacuuming, moving furniture, cleaning bathrooms and windows, and washing dishes.²⁶ Moreover, when Claimant filed for unemployment benefits, she noted that she was unable to do a lot of the climbing, lifting, bending, and pulling

²² *Id.* (emphasis added).

²³ *Id.* (emphasis added).

²⁴ R. at 113.

²⁵ *Id.* (emphasis added).

²⁶ *Id.* at 36.

required by her job as a housekeeper due to pain in her arms and back.²⁷ In other words, Claimant remained limited as to the work she could perform. Another witness for Employer, Al Carter, testified that Claimant would possibly have to lift or pull up to 20 pounds as part of her housekeeping job.²⁸ Although Claimant continues to look for work, she is unable to work within the meaning of 19 *Del. C.* § 3314(8) because, according to her doctor, she is restricted from performing her normal job duties due to a physical condition, and thus, the Board's decision is supported by substantial evidence in the record and free from legal error.²⁹

V. CONCLUSION

For the foregoing reasons, the Board's decision is **AFFIRMED**.

IT IS SO ORDERED.

Jan R. Jurden, Judge

cc: Prothonotary

²⁷ *Id.* at 4.

²⁸ *Id.* at 114.

²⁹ *See Petty v. Univ. of Delaware*, 450 A.2d 392, 395 (Del. 1982).