

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY**

SONJA L. TAYLOR-BRAY,	)	
	)	
Appellant,	)	
	)	
v.	)	C.A. No. K12A-11-001 RBY
	)	
UNEMPLOYMENT INSURANCE	)	
APPEAL BOARD,	)	
	)	
Appellee.	)	

Date Submitted: April 23, 2013  
Date Decided: May 24, 2013

**OPINION**

On Appeal from the Decision of the  
Unemployment Insurance Appeal Board

**AFFIRMED**

Sonja L. Taylor-Bray, *pro se*.

Thomas H. Ellis, Esq., Department of Justice for Delaware Division of  
Unemployment Insurance.

YOUNG, J.

### **SUMMARY**

Sonja Taylor-Bray (“Claimant”) has appealed the November 14, 2012 decision of the Unemployment Insurance Appeal Board (the “Board”). The Board affirmed the Appeals Referee’s determination that Claimant had exhausted her unemployment insurance benefits. Claimant contends that, as a State of Delaware merit system employee, she has a property interest in receiving unemployment benefits until she secures a new source of income. The Board held that the Department of Labor is legally required to comply with state and federal unemployment insurance law. Under the applicable laws, the Board found that Claimant had collected all the unemployment insurance benefits to which she was entitled. Claimant appeals the Board’s decision to the Superior Court. Upon review of the record, the Court finds the Board’s decision, that Claimant’s benefits were exhausted, to be correct. Therefore, the Unemployment Insurance Appeal Board’s November 14, 2012 decision is **AFFIRMED**.

### **FACTS**

Claimant, filed her original claim for state unemployment benefits in August 2009. The Division of Unemployment Insurance determined that she was eligible to receive unemployment compensation. Claimant began receiving a weekly benefit amount of \$330.00. After her regular state benefits ran out, Claimant applied for and received additional benefits authorized by the federal governments’ emergency economic relief measures. She received 19 weeks of benefits under Tier 1, 19 weeks of benefits under Tier 2, and 13 weeks of benefits under Tier 3. On October 31, 2011

the Division of Unemployment Insurance issued a letter informing Claimant that her unemployment insurance benefits had been exhausted. Claimant filed an appeal of that decision on November 1, 2011.

On August 28, 2012, a hearing was held before a Referee. Both the Claimant and representatives of the Department of Labor appeared. Claimant testified at the hearing, arguing that as a State of Delaware merit system employee she has a property interest in receiving uninterrupted unemployment benefits until she is able to secure a new source of income. The Department of Labor witness testified that Claimant has collected the maximum benefits to which she was entitled. This witness further explained that there were no further extensions of benefits available to the Claimant.

The Referee affirmed the determination that Claimant's benefits were exhausted, finding Claimant ineligible for additional unemployment benefits. Claimant appealed the referee's decision to the Board. Having reviewed the record, the Board determined that Claimant had collected unemployment benefits for the maximum compensable weeks allowed under applicable state and federal unemployment insurance law. Claimant now appeals the Board's decision to the Superior Court.

### **STANDARD OF REVIEW**

For administrative board appeals, this Court is limited to reviewing whether the Board's decision is supported by substantial evidence and free from legal error.<sup>1</sup> Substantial evidence is that which "a reasonable mind might accept as adequate to

---

<sup>1</sup> 29 Del C. §10142(d); *Avon Prods. v. Lamparski*, 203 A.2d 559, 560 (Del. 1972).

support a conclusion.”<sup>2</sup> It is “more than a scintilla, but less than preponderance of the evidence.”<sup>3</sup> An abuse of discretion will be found if the board “acts arbitrarily or capaciously. . .exceeds the bounds of reason in view of the circumstances and has ignored recognized rules of law or practice so as to produce injustice.”<sup>4</sup> Questions of law will be reviewed *de novo*.<sup>5</sup> In the absence of an error of law, lack of substantial evidence or abuse of discretion, the Court will not disturb the decision of the board.<sup>6</sup>

### **DISCUSSION**

“Delaware law provides for 26 weeks of unemployment benefits absent a federal or state extension.”<sup>7</sup> To provide benefits beyond the third-tier emergency extension provided for by federal law, Delaware’s statewide unemployment rate must be at or above 8.5%.<sup>8</sup> On the date when Claimant’s Tier 3 benefits ran out, Delaware’s total unemployment rate was 8.1%, a figure below the triggering

---

<sup>2</sup> *Olney v. Cooch*, 425 A.2d 610, 614 (Del. Super. 1981) (citing *Consolo v. Fed. Mar. Comm’n*, 383 U.S. 607, 620 (1966)).

<sup>3</sup> *Id.* (quoting *Cross v. Calfano*, 475 F.Supp. 896, 898 (D. Fla. 1979)).

<sup>4</sup> *Delaware Transit Corp. v. Roane*, 2011 WL 3793450, at \*5 (Del. Super. Aug. 24, 2011) (quoting *Straley v. Advanced Staffing, Inc.*, 2009 WL 1228572, at \*2 (Del. Super. April 30, 2009)).

<sup>5</sup> *Anchor Motor Freight v. Ciabattoni*, 716 A.2d 154, 156 (Del. 1998).

<sup>6</sup> *Carrion v. City of Wilmington*, 2006 WL 3502092, at \*3 (Del. Super. Dec. 5, 2006).

<sup>7</sup> *Welk v. Unemployment Ins. Appeal Bd.*, 2013 WL 1090765, \*1 (Del. Super. March 4, 2013).

<sup>8</sup> 26 U.S.C. §3304 Note Sec. 4002(e)(3)(A).

*Taylor-Bray v. Unemployment Insurance Appeal Board*  
K12A-11-001 RBY  
May 24, 2013

threshold set by Congress for the payment of Tier 4 benefits. Therefore, Claimant could not obtain a fourth extension of benefits. Claimant was also ineligible for a state extended benefits claim, because she had another regular state claim in the system based on her earnings as a school bus driver.

The record demonstrates that it is undisputable that Claimant has received all the unemployment benefits allowable as of October 31, 2011. Claimant's benefits for this claim are exhausted. The Board's decision is supported by substantial evidence and is free from legal error. There are no other issues for the Court to consider.

**CONCLUSION**

For the forgoing reasons, the decision of the Unemployment Insurance Appeal Board is **AFFIRMED**.

\_\_\_\_\_  
/s/ Robert B. Young  
J.

RBV/dsc  
*Via File & ServeXpress & U.S. Mail*  
oc: Prothonotary  
cc: Sonya L. Taylor-Bray, *pro se*  
Thomas H. Ellis, Esq.  
Opinion distribution