

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

<b>Joseph Pyle,</b>	)	
	)	
	)	
<b>Appellant,</b>	)	
	)	
<b>v.</b>	)	<b>C.A. No. N12A-11-008 MJB</b>
	)	
	)	
<b>Panache Mechanical, LLC,</b>	)	
	)	
<b>&amp;</b>	)	
	)	
<b>UNEMPLOYMENT INSURANCE</b>	)	
<b>APPEALS BOARD</b>	)	
	)	
	)	
<b>Appellees.</b>	)	
	)	

Submitted: April 25, 2013  
Decided: July 30, 2013

*Upon Appellant's Appeal from the Unemployment Insurance Appeal Board's Decision.*  
**AFFIRMED.**

**OPINION AND ORDER**

Joseph K. Pyle, 3108 Green St., Claymont, Delaware, *pro se*, Appellant.

Katherine R. Witherspoon, Crossland & Associates, LLC, 4001 Kennett Pike, Suite 316, Two Greenville Crossing, Greenville, Delaware, Appellee.

**BRADY, J.**

## I. Introduction

This appeal, filed by Joseph Pyle (“Pyle”), challenges the Unemployment Insurance Appeals Board’s (“UIAB”) decision on November 14, 2012 that denied Pyle unemployment benefits. Pyle filed this instant appeal on November 21, 2012. The parties were placed on a briefing schedule on February 27, 2013. The final brief was submitted to this Court on April 22, 2013 and the matter was referred to this Judge on April 25, 2013. This Court must determine whether the UIAB’s conclusion that Pyle was ineligible for unemployment benefits because he voluntarily resigned without good cause is supported by substantial evidence and is free from legal error.<sup>1</sup> After reviewing the pleadings and the record, this Court has determined, for the reasons set forth below, that substantial evidence exists to support the UIAB’s conclusion that Pyle voluntarily resigned without good cause and that no legal error is present. Accordingly, the matter is AFFIRMED.

## II. Background

Pyle and three others owned and worked for Panache Mechanical LLC (“Panache”), which they started in 2010.<sup>2</sup> Soon after Panache commenced operations, one of the owners resigned from Panache, which left it with three owners, Pyle, Gary Frerrant, and John Rebideou.<sup>3</sup> At first, Panache was very successful, working as an outside contractor for Evraz Steel.<sup>4</sup> Until January 2012, Panache was using up to twenty laborers once or twice a week and earning up to \$18,000 a job at Evraz Steel.<sup>5</sup> However, as the economy began to slow down, so did Panache’s

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<sup>1</sup> *Longobardi v. Unemployment Ins. Appeal Bd.*, 287 A.2d 690, 692 (Del. Super. 1971)(citing *Air Mod Corp. v. Newton*, 215 A.2d 434 (Del. 1965)).

<sup>2</sup> R. 43.

<sup>3</sup> *Id.* at 43, 1.

<sup>4</sup> R. 44, Appellant Joseph K. Pyle Reply Brief 2.

<sup>5</sup> R. 44.

business.<sup>6</sup> As Panache's business struggled, it no longer hired additional workers. This left Panache with just the three workers, the three owners.<sup>7</sup> Moreover, Panache was no longer generating \$18,000 a job, but instead was generating approximately \$4,000-6,000 a job.<sup>8</sup>

As the business began to slow, each of the three owners took on separate roles.<sup>9</sup> One owner, John Rebideou, hurt his back and became the timekeeper for Panache. Meanwhile, another owner, Gary Frerrant, was the "the go to guy to get our jobs."<sup>10</sup> Finally, Pyle remained the manual laborer for Panache.<sup>11</sup> Even with the separation of duties, the owners began rotating Fridays off from work.<sup>12</sup> For example, Pyle would be off one Friday from work, while Gary Frerrant and John Rebideou would work.<sup>13</sup> As the business continued to slow, Mr. Pyle stated "there wasn't hardly any work and we all seen the writing on the wall that we were either all be out of business or try to keep the company going."<sup>14</sup>

At this point, one of the owners, Gary Frerrant, stated that he wanted to leave Panache, but Pyle disagreed because without Gary Frerrant, Panache would not be able to earn any work.<sup>15</sup> As such, Pyle believed it would be more beneficial to lay-off either John Rebideou or himself.<sup>16</sup> Additionallu, at this time, Pyle had disagreements with the other owners over Panache's operations and purchases.<sup>17</sup>

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<sup>6</sup> *Id.* at 44.

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

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 44-45.

<sup>10</sup> *Id.* at 44.

<sup>11</sup> *Id.* at 44-45.

<sup>12</sup> *Id.* at 45.

<sup>13</sup> Appellant Reply Br. 2.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 46.

<sup>17</sup> *Id.* at 46-47.

These disagreements started in April 2012 at a breakfast between the three owners.<sup>18</sup> At this breakfast, the owners discussed a number of purchases with which Pyle disagreed including the purchase of a \$4,000 Harley Davidson on behalf of Panache for a supervisor at Evraz Steel.<sup>19</sup> Pyle believed this purchase was to get Panache work and disagreed with this business decision.<sup>20</sup>

The difference of opinion between Pyle and the other two owners concerning purchases on behalf of Panache and Panache's slowed business led to Pyle's resignation from Panache on May 31, 2012.<sup>21</sup> As part of Pyle's resignation, Pyle received a \$31,000 buyout that was reflective of Pyle's one-third ownership.<sup>22</sup> Additionally, Pyle signed a General Release that prevented him from pursuing claims, liability, actions, and judgments against Panache.<sup>23</sup>

Following Pyle's resignation, he was unable to find work and filed for unemployment.<sup>24</sup> On July 26, 2012, after reviewing Pyle's case, the claims deputy referred this issue to an appeals referee because of the complex nature of Pyle's case.<sup>25</sup> On August 22, 2010, the appeals referee held a hearing after which she determined that Pyle voluntarily resigned from Panache for personal reasons stemming from a difference of opinion among Pyle and the other owners.<sup>26</sup> Having found, Pyle did not have good cause to voluntarily resign from Panache, the referee determined Pyle was ineligible for unemployment benefits.<sup>27</sup> Pyle appealed the referee's

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<sup>18</sup> *Id.* at 46.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 46-47.

<sup>21</sup> *Id.* at 45-47.

<sup>22</sup> *Id.* at 1.

<sup>23</sup> *Id.* at 19.

<sup>24</sup> *Id.* at 6.

<sup>25</sup> *Id.* at 3. Moreover, according to Del Code 3318(a) a claims deputy may refer a claim to an appeal tribunal in lieu of making a decision.

<sup>26</sup> *Id.* at 7, 17.

<sup>27</sup> *Id.* at 17.

decision to the UIAB.<sup>28</sup> On Oct. 21, 2012, the UIAB held a hearing after which it affirmed the appeals referee's decision.<sup>29</sup> Pyle now appeals the UIAB's decision to this Court.<sup>30</sup>

### III. Parties' Contentions

Pyle contends that he was forced to leave Panache by his two other owners in a two to one vote, and that he was informed by a lawyer to either take the \$31,000 buyout and resign or potentially be left with nothing.<sup>31</sup> Pyle further alleges that John Rebideau, an owner of Panache, stated that he should be able to receive unemployment.<sup>32</sup> As such, Pyle contends he did not voluntarily resign, but instead was forced out of Panache and should be able to receive unemployment.<sup>33</sup>

Panache argues that Pyle's Opening Brief does not comply with the Delaware Superior Court Rule of Civil Procedure 107(e) and, as such, should be dismissed.<sup>34</sup> Additionally, Panache contends that the Court should dismiss the case because of the General Release signed by Pyle, which allegedly prevents him from bringing an unemployment claim against Panache. Alternatively, Panache argues that if the Court does not dismiss Pyle's appeal for violating Delaware Superior Court Rule of Civil Procedure 107(e) or because Pyle is barred from bringing an unemployment claim pursuant to the General Release he signed, the Court should affirm the UIAB's conclusion that Pyle voluntarily resigned without good cause because it is substantially supported by the evidence.<sup>35</sup> Specifically, that the evidence supports the UIAB's conclusion that

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<sup>28</sup> *Id.* at 38-39.

<sup>29</sup> *Id.* at 40, 49-50.

<sup>30</sup> Pyle filed the instant appeal on November 14, 2012. R. 56.

<sup>31</sup> Appellant Opening Br. 2.

<sup>32</sup> Appellant Response Br. 3

<sup>33</sup> Appellant Opening Br. 2.

<sup>34</sup> *Id.* at 3.

<sup>35</sup> Appellee Answering Br. 5-6

Pyle voluntarily left when agreeing to the buyout and that he left Panache because of a difference of opinion, which is not good cause to resign.<sup>36</sup>

#### IV. Standard of Review

This Court gives deference to the UIAB's decisions and has a limited scope of review of UIAB's decisions.<sup>37</sup> The Court does not determine questions of credibility, weigh evidence, or make factual findings, but instead relies solely on the facts contained in the record.<sup>38</sup> In reviewing a decision on appeal from the UIAB, this Court's sole duty is to determine whether the decision is supported by substantial evidence and is free from legal error.<sup>39</sup> Substantial evidence is relevant evidence that a reasonable mind might accept as sufficient to support the UIAB's decision.<sup>40</sup> Substantial evidence requires less than a preponderance of the evidence, but "more than a mere scintilla."<sup>41</sup> If there is substantial evidence supporting the UIAB's decision that Pyle voluntarily resigned without good cause and no legal error present, the Court must affirm the UIAB's decision.<sup>42</sup>

#### V. Discussion

The issue in this case is whether the UIAB's decision that Pyle voluntarily resigned without good cause should be affirmed because it is supported by substantial evidence and is free from legal error. Panache contends that the UIAB's decision denying Panache should be affirmed for the following three reasons: 1.) Pyle's brief did not comply with Delaware Superior Court Rule of Civil Procedure 107(e); 2.) Pyle is barred from pursuing his unemployment claim

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<sup>36</sup> *Id.*

<sup>37</sup> *PAL of Wilmington v. Graham*, 2008 WL 2582986, at \*3 (Del. Super. June 18, 2008).

<sup>38</sup> *Benjamin v. NET, Inc.*, 2013 WL 1091219, at \*3 (Del. Super. Feb 26, 2013).

<sup>39</sup> *Unemployment Ins. Appeal Bd. of Dept. of Labor v. Duncan*, 337 A.2d 308, 309 (Del. 1975).

<sup>40</sup> *NET, Inc.*, 2013 WL 1091219, at \*4.

<sup>41</sup> *Graham*, 2008 WL 2582986, at \*3 (quoting *Breeding v. Contractors-One-Inc.*, 549 A.2d 1102, 1104 (Del. 1988)).

<sup>42</sup> *City of Newark v. Unemployment Ins. Appeal Bd.*, 802 A.2d 318, 323 (Del. Super. 2002).

against Panache pursuant to the General Release he signed, which waived Panache of all liability in reference to Pyle; and 3.) the UIAB's decision is supported by substantial evidence and is free from legal error.

*I. Pyle's Appeal does not comply with Delaware Superior Court Rule of Civil Procedure 107(e)(3)-(5), but will not be dismissed.*

Panache contends that Pyle's action should be dismissed because his Opening Brief did not comply with Delaware Superior Court Rule of Civil Procedure 107(e).<sup>43</sup> That contention is accurate. Pyle's brief did not comply because it was lacking a table of contents, a statement of the questions involved, and argument section with appropriate headings. However, after review of the pleading, this Court will not dismiss Pyle's appeal. Pyle's contention and substance of his argument are identifiable from his brief providing Panache with sufficient notice of his claim.<sup>44</sup> This Court will decide this issue on the merits in light of Delaware's strong public policy in favor of making decisions on a case's merits.<sup>45</sup>

*II. The General Release Pyle signed does not preclude him from bringing any unemployment claim against Panache.*

Panache contends that Pyle released it from unemployment claims in the General Release he signed.<sup>46</sup> 19 Del. C. 3371(a) provides "[a]ny agreement by an individual to waive, release or commute the individual's right to [unemployment] benefits... shall be void."<sup>47</sup> Pyle could not have waived his right to unemployment benefits by signing the General Release because such an agreement would be void.

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<sup>43</sup> Appellee Answering Br. 3

<sup>44</sup> *Yates v. Masley Enters.*, 2012 WL 1415701 at \*7 (Del. Super. Ct. Feb. 29, 2012); *Camara v. Marine Lubricants*, 2013 WL 1088334 at \* 2-3 (Del. Super. Ct. Feb. 25, 2013).

<sup>45</sup> *Draper v. Medical Center of Delaware*, 767 A.2d 796, 798 (Del. 2001).

<sup>46</sup> Appellee Answering Br. 7.

<sup>47</sup> 19 Del C. § 3371(a).

*III. The UIAB's decision denying Pyle unemployment benefits because he voluntarily resigned without good cause is supported by substantial evidence and is free from legal error.*

Pursuant to 19 Del. C. 3314 (1), an individual is disqualified from receiving unemployment benefits if the individual voluntarily resigns without good cause from one's work. To be disqualified from receiving unemployment benefits, the unemployed must have both voluntarily resigned and not have good cause for such resignation.<sup>48</sup> To voluntarily resign one must leave on his own volition with a conscious intention to leave or terminate his employment.<sup>49</sup> However, an employee does not voluntarily resign when she is pressured to resign.<sup>50</sup> Good cause exists when a cause would justify an employee from leaving the ranks of the employed to become unemployed.<sup>51</sup> Here, substantial evidence exists that Pyle voluntarily resigned without good cause.

In this case, substantial evidence exists that Pyle voluntarily resigned from Panache Mechanical. This conclusion is supported by Pyle himself who stated his intention to leave Panache resulted from a difference of opinion with the other owners, the business was starting to slow,<sup>52</sup> and he accepted the \$31,000 buyout.<sup>53</sup> However, Pyle now contends that his fellow owners voted to remove him from Panache and as such, pressured him into taking a \$31,000 buyout or potentially receive nothing.<sup>54</sup> While this makes it appear as though Pyle was pressured to leave Panache, which would render his resignation involuntary,<sup>55</sup> this contention is

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<sup>48</sup> 19 Del C. § 3314(1).

<sup>49</sup> *Gsell v. Unclaimed Freight*, 1995 WL 339026, at \* 3 (Del. Super. May 3, 1995)(citing *Heisel v. Com.*, *Unemployment Compensation Bd. of Review, Pa. Cmnwlth.*, 421 A.2d 496 (1980); *Roberts v. Com.*, *Unemployment Compensation Bd. of Review, Pa. Cmnwlth.*, 432 A.2d 646 (1981)).

<sup>50</sup> *Graham*, 2008 WL 2582586, at \*6.

<sup>51</sup> *Crews v. Sears Roebuck & Co.*, 2011 WL 2083880, at \*2 (Del. Super. 2011)(quoting *O'Neal's Bus. Serv., Inc. Employment Sec. Comm'n*, 269 A.2d 247, 249 (Del. Super. 1970).

<sup>52</sup> R. 45-46.

<sup>53</sup> *Id.* at 1.

<sup>54</sup> Appellant Opening Br. 2.

<sup>55</sup> *Graham*, 2008 WL 2582586, at \*6.



first asserted in Pyle's Opening Brief to the Court and is not contained in the record. Because this Court can only consider facts contained in the record,<sup>56</sup> this contention cannot be considered by the Court. The facts in the record, the Court finds, would allow a reasonable mind to come to the conclusion that Pyle voluntarily resigned.

The Court must now determine whether Pyle's voluntary resignation is without good cause. The employee has the burden to prove that good cause existed for him to leave the ranks of the employed to join the ranks of the unemployed.<sup>57</sup> In determining if good cause existed, the employee's resignation must have resulted from reasons controllable by the employer in which no reasonable prudent person would remain employed after exhausting administrative remedies.<sup>58</sup>

In determining if a reasonable prudent person would remain employed, this Court has previously determined that resignations resulting from personal reasons, such as disagreements between co-workers, are not good cause for a voluntary resignation.<sup>59</sup> While a disagreement among fellow owners may have created an undesirable work environment for Pyle, Delaware Courts have stated an undesirable work condition is not good cause to voluntarily resign.<sup>60</sup>

Pyle's personal monetary decision to accept the \$31,000 buyout also does not result in good cause for his voluntary resignation.<sup>61</sup> In *Finney v. Hercules, Inc.*, this Court rendered a claimant disqualified for unemployment benefits because the claimant made the personal monetary decision to exploit an opportunity for an early retirement package including severance

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<sup>56</sup> *NET, Inc.*, 2013 WL 1091219, at \* 3.

<sup>57</sup> *Longobardi*, 287 A.2d at 692.

<sup>58</sup> *Thompson v. Christiana Care Health*, 25 A.3d 778, 783. (Del. 2011).

<sup>59</sup> *Thompson*, 25 A.3d at 782-784

<sup>60</sup> *Id.*

<sup>61</sup> *Finney v. Hercules*, 2001 WL 1448468 at \* 3 (Del. Super. Ct. Oct. 3, 2001).

pay, instead of remaining with Hercules and potentially being laid-off.<sup>62</sup> Similarly, Pyle made a personal monetary choice. While circumstances might have been such that he could have been laid-off, he chose to terminate his relationship with Panache through a buyout of his ownership interest.<sup>63</sup>

The Courts of this State have found that good cause is established and unemployment benefits may be claimed by an employee, who is also an owner, that voluntarily ceases operation of his unprofitable business.<sup>64</sup> For example, in *Unemployment Insurance Appeal Board v. Division of Unemployment Insurance*, owners of a restaurant in Rehoboth were allowed to collect unemployment during the unprofitable winter season.<sup>65</sup> The Court agreed that the owners' choice to voluntarily close their restaurant during the winter season was supported by good cause of the business' unprofitability and as such the owners should be eligible for unemployment.<sup>66</sup>

Pyle's case differs from that of the owners in *Unemployment Insurance Appeals Board*. There is no evidence that Panache was planning to, or has, ceased operations.<sup>67</sup> In fact, Panache had sufficient resources to pay Pyle a \$31,000 buyout and continues to operate today.<sup>68</sup> Panache's business merely slowed, but there is no evidence is in the record to support a finding that the business became so unprofitable, that the business would cease to operate, thereby rendering Pyle unemployed.<sup>69</sup>

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<sup>62</sup> *Id.*

<sup>63</sup> R. 45-46.

<sup>64</sup> *Unemployment Ins. Appeal Bd. V. Div. of Unemployment Ins.*, 803 A.2d 931, 934,937 (Del. 2002).

<sup>65</sup> *Id.* at 934, 937.

<sup>66</sup> *Id.* at 937.

<sup>67</sup> R. 50.

<sup>68</sup> *Id.*

<sup>69</sup> R. 50.

While Pyle contends that Panache's slowed business forced him to leave,<sup>70</sup> the Board, as the finder-of-fact, concluded that Pyle left because of a disagreement among owners.<sup>71</sup> Further, the Board determined that Panache's actual financial condition could not be discerned from the facts alleged.<sup>72</sup> This Court is not the finder-of-fact,<sup>73</sup> and defers to the Board's findings that Pyle chose to leave Panache due to a disagreement between the owners. There is substantial evidence to support such a finding, and denial of Pyle's claims based on that finding would be free of legal error.

## VI. Conclusion

Substantial evidence supports the Board's conclusion that Pyle's resignation was without good cause because personal disagreements existed between owners and the opportunity to receive a buyout motivated Pyle to resign. Thus, Pyle is disqualified for unemployment benefits under 19 Del C. § 3314(1). For the reasons stated above, the UIAB's judgment below is **AFFIRMED.**

**IT IS SO ORDERED.**

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/s/

M. Jane Brady

Superior Court Judge

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<sup>70</sup> R. 45.

<sup>71</sup> *Id.* at 50.

<sup>72</sup> *Id.*

<sup>73</sup> *NET, Inc.*, 2013 WL 1091219, at \* 3.