SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD R. COOCH
RESIDENT JUDGE

NEW CASTLE COUNTY COURTHOUSE
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Jill A. Jarrell
2003 Carol Drive
Wilmington, Delaware 19808
Appellant, *pro se*

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Attorney for Appellee AmeriSpec Home Inspections, Inc.

Re: Jill A. Jarrell v. AmeriSpec Home Inspections, Inc.
C.A. No. N10A-10-005 RRC

Submitted: June 22, 2011
Decided: August 30, 2011

On Appeal from a Decision of the Unemployment Insurance Appeal Board.
REVERSED AND REMANDED.

Dear Ms. Jarrell and Mr. Hall:

INTRODUCTION

Appellant Jill A. Jarrell ("Employee") filed Notice of Appeal from the October 1, 2010 decision of the Unemployment Insurance Appeal Board (the "Board") holding that Employee had been terminated for "just cause" and disqualified from receiving unemployment benefits.[1] The Board based its

[1] This decision arose from Employee's appeal from the Delaware Department of Labor Appeals Referee's decision of July 15, 2010 reversing the Claims Deputy's determination that there was not "just cause" for Employee's termination. Decision of the

determination on Employee's multiple absences from work, absences for which Employee did not furnish supporting medical documentation, and Employee's alleged insubordination to Employer. The Board's finding of insubordination centers on an email from Employee to her supervisor in which she expressed her dissatisfaction with the stressors that Employer's "incentive" program had engendered and requested not to hear anything further about this incentive program. Appellee AmeriSpec Home Inspections, Inc. ("Employer") concedes that the Board erred in considering the issue of Employee's absences from work, given that Employer did not maintain a policy requiring medical notes or other documentation for absences, but nonetheless maintains that Employee's alleged insubordination independently provides a sufficient basis for the Board's holding.

The Board did not indicate the extent to which it relied on Employee's absences, as compared Employee's alleged insubordination, in reaching its holding. On the present record, the Court cannot determine if, after eliminating Employee's absences from consideration, the Board would have reached the same conclusion and, if so, whether such conclusion would have been supported by substantial evidence. Consequently, the decision of the Board is **REVERSED** and this case is **REMANDED** to the Board for reconsideration of its holding, in light of the fact that Employer concedes that Employee's attendance issues did not provide just cause for her termination.

FACTS AND PROCEDURAL HISTORY

This case arises from Employee's March 24, 2010 termination from employment with Employer.[2] Employee had been employed with Employer since 2007. At the time of her termination, her duties included "office work" for Employer, a home inspection service company, and she was compensated at a rate of $650 per week.[3]

Although the Claims Deputy initially determined that Employee was not terminated for "just cause and, consequently, entitled to unemployment

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Unemployment Insurance Appeal Board on Appeal from the Decision of Appeals Referee, Appeal Docket No. 20142346 (Oct. 1, 2010).

[2] Division of Unemployment Appeals Referee's Decision at 2.

[3] *Id.*

benefits, the Appeals Referee reversed this determination.[4] The Appeals Referee's Summary of Evidence states as follows:

> The employer witnesses testified as follows: the employer has a laundry list of complaints against the claimant. She was chronically late. She missed much time from work due to medical appointments and medical illness. She did not bring in medical excuses. She was a licensed real estate agent and conducted her own business on company time. She was insubordinate. She was asked to perform certain marketing functions and she did not want to do the tasks assigned. Additionally, she e-mailed the employer stating "I'd prefer not to hear anything else about it."
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> The claimant was verbally warned that her tardiness could be reason for discharge in 2009 and in the first quarter of 2010.
>
> The claimant testified as follows: she was not chronically late. She was never given any reprimand about lateness or any other issue. She did not spend time on her own real estate business. She was very busy and worked overtime.
>
> She did write the employer saying that she did not want to work on a marketing program. The reason that she did not want to work on the program was because she was doing the job of two people and did not have time to do any additional work.[5]

Based on the foregoing evidence, the Appeals Referee found that Employer had failed to provide clear warnings to Employee with respect to her alleged tardiness and absences due to medical issues and her alleged operation of a separate real estate business on company time.[6] Nonetheless, the Appeals Referee found that Employee's insubordination had been established, and was a sufficient cause for her termination; the Appeals Referee held:

> [A] serious issue is the insubordination of the claimant regarding an assigned marketing task. The claimant testified that she could not do the task because she was overworked. The claimant testified that she did not want to do the work because of the amount of time it would take her and the stress it would entail. She goes on to say in her email "I'd prefer not to hear anything else about it." This is in clear disregard to the employer's interests. The claimant has the obligation to follow a reasonable order by the employer. In any

[4] Decision of Appeals Referee, Appeal Docket No. 20142346 (July 15, 2010).
[5] *Id.* at 2.
[6] *Id.* at 3.

> event, she has an obligation to discuss the matter in detail with the employer. Failure to do so is insubordination. I find that the claimant was insubordinate in regard to this area of her work and is disqualified from receiving unemployment benefits.[7]

However, on appeal, the Board based its determination on both Employee's insubordination and Employee's tardiness and absences. Specifically, the Board held as follows:

> In this case, the Claimant was terminated because of her excessive absenteeism, tardiness and for sending an insubordinate email wherein the Claimant refused to participate in an incentive program. The Employer's representative testified credibly that the expectation that the Claimant complete the marketing projects that were included in the incentive program was not new because the Claimant had always expected to work on the marketing assignments. The Claimant did not dispute that she missed work in the days leading up to her termination nor did the Claimant deny sending the email that ultimately resulted in the Claimant's termination. Instead, the Claimant focused the majority of her testimony on describing her working conditions and other issues she took with the Employer. . . .
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> Thus, the Board cannot agree that the Claimant's behavior was justified. Rather, the Board finds that the Claimant's insubordinate email combined with the fact that the Claimant missed several days of work without providing proof of her illness to the Employer constitutes the willful and wanton misconduct that precludes the receipt of unemployment benefits. The Board finds that the Employer met its burden of proving by a preponderance of the evidence that it had just cause for terminating the claimant.[8]

For her part, Employee testified to the Board that she did not intend for her email to be construed as insubordinate; she stated that, on the date of the email, she had an "extreme headache due to a spinal injection" from the previous day, and she merely intended to convey that she would "appreciate not having this incentive program used against [her]" and would "prefer not to hear about it anymore" because she would "do [her] job and aim for the

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[7] *Id.*

[8] Decision of the Unemployment Insurance Appeals Board on Appeal from the Decision of Appeals Referee, Appeal Docket No. 20142346 (Oct. 1, 2010) at 3-4.

goal as [she] always had."[9] Employee testified that she believed there is a "difference between expressing frustration and insubordination."

CONTENTIONS OF THE PARTIES

Employee contends that the evidence presented does not support the Board's decision.[10] According to Employee, the Appeals Referee "clearly misunderstood the sequence of events and significance of emails" contained in the record.[11] Employee argues that the Appeals Referee misconstrued her email, as she asserts that she was not refusing to do her assigned job, but simply providing an "irritated reaction to her being continually prodded to the point that it felt like needling."[12] Employee further argues that her use of the phrase "but I would prefer not to hear anything else about [the incentive program]" evinces that she was merely "expressing a preference," rather than indicating any intentions or complaints about her employment duties in general.[13] In turn, Employee argues that the alleged insubordinate tone of this

[9] Transcript of Administrative Hearing Before Unemployment Insurance Appeals Board of Sept. 15, 2010 at 6.

[10] Employee's Opening Br. at 4. Notably, Employee has misstated the standard of review that applies to an appeal of a decision of the Appeals Referee to the Board; Employee indicated that the Board's review is limited to a determination of whether there is substantial evidence in the record to support the Referee's decision and whether the Appeals Referee's decision was free from legal error. *Id.* at 4. However, this is the standard of review applicable to this Court's review of the Board's decisions. *See, e.g., infra* note 20. In contrast, the Board is free to consider additional evidence in reaching its decision. *See* 19 Del. C. § 3320(a) ("The Unemployment Insurance Appeal Board [UIAB] may on its own motion, affirm, modify, or reverse any decision of an appeal tribunal on the basis of the evidence previously submitted to the appeal tribunal or it may permit any of the parties to such decision to initiate further appeal before it."); *Robbins v. Deaton*, 1994 WL 45344, at *4 (Del. Super.) ("The Board may base its decision on evidence previously submitted to the Appeals Referee or on new, additional evidence.").

[11] *Id.*

[12] *Id.* at 5. Employee also disputes the extent to which the disputed marketing activities were encompassed within her employment responsibilities, thereby vitiating the alleged insubordinate tenor of her email. *See* Employee's Reply Br. at 3 ("Lacking an updated job description, it is not at all clear, and never was, that the incentive program, which was introduced [subsequent to Employee's commencement of employment], was part and parcel of [Employee's] regular duties; thus, [Employee's] interpretation and consequent reaction that it was separate and apart was justifiable.").

[13] Employee's Reply Br. at 10.

email, without more, is insufficient to support a finding of just cause for termination.[14]

Employer concedes that the Board committed legal error in relying on Employee's several absences, absences for which she did not provide supporting documentation, in finding just cause for her termination.[15] Indeed, Employer acknowledged that Employee was not required to provide medical documentation for her absences.[16] Nonetheless, Employer contends that Employee's allegedly insubordinate email is an adequate basis for the Board's decision.[17] Employer asserts that Employee was "clearly insubordinate to her supervisors" and that, after an inquiry from her supervisors about a missed deadline for an "email blast" assignment, Employee responded with

> unprofessional and disrespectful emails telling her supervisors that she was not going to complete the project, that the work she was being asked to do was not worth her time, that she was not going to complete similar work in the future if it required extra time, and that she did not want to hear about the issue from her supervisors anymore.[18]

Thus, Employer contends that the instant email exchange, together with Employer's testimony regarding their reasoning for termination Employee, constitutes substantial evidence in support of a finding of just cause for termination.[19]

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[14] Employee's Opening Br. at 10*; see also id.* at 6 ("In sum, the simple fact remains that there is simply not substantial evidence to adequately establish that the e-mails in question rose to a level of a willful and wanton act."). Employee also contends that the Board overlooked a "pattern of employer bias" in that "Employer's sister had been issued a written warning for insubordination, yet her employment was only terminated after repeat offenses." *Id.* at 8.

[15] Employer's Answ. Br. at 10-11 ("[B]ecause there is no evidence that [Employer] required medical documentation for absences or that [Employer] had notified [Employer] that their law policy on documenting absences had changed, the Board committed legal error by concluding that [Employee's] failure to document her absences was just cause to terminate.").

[16] *Id.* at 10.

[17] *Id.* at 11.

[18] *Id.* at 12.

[19] *Id.* at 13.

STANDARD OF REVIEW

This Court's review of an Unemployment Insurance Appeal Board decision is defined by statute. Pursuant to 19 Del. C. § 3323(a), "the findings of the Unemployment Insurance Appeal Board as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the Court shall be confined to questions of law." The scope of this Court's review "is limited to a determination of whether there was substantial evidence sufficient to support the findings" of the Board;[20] substantial evidence is defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[21] Consequently, this Court will not disturb the Board's determination absent an abuse of the Board's discretion.[22] An abuse of discretion will be found only if "the Board 'acts arbitrarily or capriciously' or 'exceeds the bounds of reason in view of the circumstances and has ignored recognized rules of law or practice so as to produce injustice.'"[23]

Pursuant to 19 Del. C. § 3314(2),[24] an employee who is terminated for "just cause" shall be disqualified from receiving unemployment benefits. The employer bears the burden of establishing that an employee was terminated for just cause.[25] Generally, "just cause" for termination is defined as "a [willful] or wanton act in violation of either the employer's interest, or of the employee's

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[20] *Unemployment Ins. Appeals Bd. v. Duncan*, 337 A.2d 308, 309 (Del 1975).
[21] *Oceanport Indus., Inc. v. Wilmington Stevedores, Inc*., 636 A.2d 892, 899 (Del. 1994) (citing *Olney v. Cooch*, 425 A.2d 610, 614 (Del. 1981).
[22] *Funk v. Unemployment Ins. Appeal Bd.*, 591 A.2d 222, 225 (Del. 1991) ("The scope of review for any court considering an action of the Board is whether the Board abused its discretion."); *see also City of Newark v. Unemployment Ins. Appeals Bd.*, 802 A.2d 318, 323 (Del. Super. Ct. 2002) ("If there is substantial evidence and no mistake of law, the Board's decision must be affirmed.") (citation omitted).
[23] *Straley v. Advanced Staffing, Inc.*, 2009 WL 1228572, * 2 (Del. Super. Ct. 2009) (citations omitted).
[24] "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." § 3314(2).
[25] *See, e.g., Whaley v. Unemployment Ins. Appeal Bd.*, 1994 WL 233984, at *2 (Del. Super.) ("The employer has the burden of establishing that a termination disqualifying a former employee from receiving unemployment benefits was for just cause.") (citation omitted).

duties, or of the employee's expected standard of conduct."[26] Termination for insubordination may constitute "just cause" if "the insubordination consists of a [willful] refusal to follow the *reasonable* directions or instructions of the employer."[27] Under certain circumstances, "[t]his definition may be satisfied through a 'single instance of insubordination.'"[28]

DISCUSSION

Employer has conceded that the Board erred in basing its determination, at least in part, on Employee's multiple absences from work, absences for which Employee did not provide supporting documentation.[29] Employer does not dispute that it maintained a "lax" policy regarding medical documentation for absences and that, to the extent the Board relied on this factor, "the Board committed legal error by concluding that Appellee's failure to document her absences was just cause to terminate."[30] It necessarily follows that the sole basis for the Board's conclusion was its determination that Employee was insubordinate; Employer maintains that this is an adequate independent ground for just cause for termination.[31] To support the Board's finding of insubordination, Employer references Employee's failure to complete an assigned "St. Patrick's Day email blast" and Employee's email indicating that she preferred not to hear anything further about Employer's marketing incentives.[32]

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[26] *Abex Corp. v. Todd*, 235 A.2d 271, 272 (Del. 1967) (citations omitted); *see also Starkey v. Unemployment Ins. Appeal Bd.*, 340 A.2d 165, 166 (Del. 1975) (Accord).

[27] *Scott v. Unemployment Ins. Appeal Bd.*, 1993 WL 390365, at *4 (Del. Super.) (citation and quotation marks omitted); *see also Granison v. Roizman & Co.*, 2005 WL 400577, at *2 (Del. Super.) ("A finding of insubordination is sufficient substantial evidence to support a denial of unemployment compensation benefits.") (citation omitted).

[28] *Foraker v. Diamond State Recycling*, 2001 WL 1398601, at *2 (Del. Super.) (citations omitted).

[29] *See* Employer's Answ. Br. at 10 ("[The] conclusion [that Employee missed several days of work without providing proof of illness] is both unsupported by the record and a product of legal error. The limited amount of testimony about this issue suggests that [Employee] was not required to provide medical documentation for her absences.").

[30] *Id.* at 10-11. *See also* Transcript of Administrative Hearing Before Unemployment Insurance Appeals Board of Sept. 15, 2010 at 16 (In Employee's supervisor's testimony before the Board, she stated that she is "a very lenient Employer" who gave Employee "all the time that she's needed and paid her for all the time that she's needed for time off.").

[31] *Id.* at 11.

[32] *Id.* at 12.

However, in addition to the Board's conceded legal error in relying on Employee's absences, the Board made no effort to clarify the extent to which it relied on this factor, as compared to its reliance on its finding of insubordination:

> Thus, the Board cannot agree that the Claimant's behavior was justified. Rather, the Board finds that the Claimant's insubordinate email combined with the fact that the Claimant missed several days of work without providing proof of her illness to the Employer constitutes willful and wanton misconduct that precludes the receipt of unemployment benefits.[33]

While it is true that a single instance of insubordination may constitute "just cause" for termination, on the present record, this Court cannot hold, as a matter of law, that the instant email exchanges were sufficiently insubordinate.[34] The present record contains emails from Employee indicating

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[33] Decision of the Unemployment Insurance Appeals Board on Appeal from the Decision of Appeals Referee, Appeal Docket No. 20142346 (Oct. 1, 2010) at 4.

[34] This Court's review of the cases assessing whether a single incident of insubordination is sufficient "just cause" for termination disclosed that, in general, the incident was of a more unambiguous and willfully defiant nature than Employee's instant email. *Compare Unemployment Ins. Appeal Bd. v. Martin*, 431 A.2d 1265 (Del. 1981) (holding that claimants' discharge for the "single incident" of leaving work without authorization was sufficient just cause given that claimants had been specifically advised that they were not permitted to leave, and that their unauthorized departure would result in their termination); *McNeill v. Unemployment Ins. Appeal Bd.*, 2003 WL 21001004 (Del. Super.) (affirming the Board's determination that the employee's four month refusal to provide documentation of her alleged medical inability to perform certain job responsibilities, together with her unilateral declaration to her supervisors that "this meeting is over" and concurrent unexcused departure from a discussion regarding this continuing failure to provide medical documentation was sufficiently insubordinate as to be just cause for termination) *and Wilmington Trust Co. v. Gaines*, 1989 WL 5122, at *4 (Del. Super.), *aff'd at* 565 A.2d 281 (Del. 1989) (affirming the Board's determination that Employee's single incident of insubordination in refusing to accept a bank customer's deposit after the 3 p.m. deadline, despite being told by her supervisor to process the deposit, was not just cause for termination because this single instance represented "poor judgment born of frustration" rather than willful or wanton conduct); *Hayward v. Employment Sec. Comm'n*, 283 A.2d 485, 487 (Del. Super Ct. 1971) (observing the distinction between "the case of a single, hotheaded, spontaneous outburst" and continuing, willful, and deliberate insubordinate conduct) (citations omitted). Put differently, "[a] single instance of irresponsible failure to heed an employer's instructions does not rise to the level of a [willful] or wanton act in violation of the employee's expected standard of conduct where it appears that the employer tolerated previous

dissatisfaction at certain points during her employment.[35] In this case, the operative email from Employee to Employer, dated March 12, 2010 states, *in toto*, as follows:

> Also, just as an FYI-I would appreciate if you stop using this incentive program against me. I will do my job the same I always have with or without this program and aim for goal as I always have. This program doesn't mean enough to me to impact [the] way I do things compared to the extra amount of work and stress it will entail. So I do thank you for the attempt. But I would prefer not to hear anything else about it.[36]

Thereafter, on March 23, 2010, it seems that Employee composed an email to a co-worker (also a putative participant in the incentive program), stating:

> I configured the rate we are going right now. . .we should make only like $160 each for March!!! Hardly seems worth the stress and unpaid overtime for me to bust my ass to make these goals. I'd make more money to get paid for overtime!!!!!
>
> Needless to say I'm not going to stress myself on the incentive program anymore-it's just not worth it to me-I just don't have it in

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actions of similar severity without warning." *Boughton v. Div. of Unemployment Ins.*, 300 A.2d 25, 27 (Del. Super. Ct. 1972). *See also Goins v. Unemployment Ins. Appeal Bd.*, 1986 WL 4571, at *3-4 (Del. Super.) (holding that the single incident of employee's disobedience of his employer's order not to proceed with his break and retrieve cigarettes from his car was insufficient cause for termination, given that the employee was on his authorized "courtesy break" during his second shift worked; the Court determined that "this isolated act of insubordination did not evidence such disregard of employer's interest or employee's duties or employee's expected standard of conduct to justify claimant's disqualification from unemployment compensation."); *cf.* 30 C.J.S. *Employer-Employee* § 75 ("An employee has the right, without breaching his or her implied obligation to his or her employer and thus creating a ground for discharge, to protest regarding working conditions and rules of the employer and to request that they be altered, and to such end the employee may discuss the subject with fellow employees and join with them in a peaceful and orderly presentation of the grievance.") (citation omitted).

[35] *See* Appellate Record at 134 ("These notes that I get are things that can be done while the people have the people on the phones are getting to be VERY ridiculous. . .I worked 10 hours straight with no break yesterday. . . ."); *Id.* at 135 ("I am finding the circumstances under which I am working here to be stressful to me and would like to take the day off tomorrow."); *Id.* at 137 ("When things get busy I won't be able to juggle [an additional job responsibility] along with everything else?!? [sic]").

[36] *Id.* at 22.

> me to do this each month with my pain and headaches and second job-maybe soon to be a third![37]

The tone and content of Employee's email to her co-worker was significantly more abrasive and blunt than her March 12 email to her supervisor. However, this email is of little, if any, probative value in assessing Employee's alleged insubordination to her supervisors, because it is directed to a co-worker, not a supervisor, and, at bottom, this email to Employee's co-worker may reasonably be construed as a generally permissible (albeit emotionally charged) attempt to discuss a grievance in workplace conditions.[38]

With respect to Employee's email to her supervisor, it may reasonably be interpreted as confrontational and, at least to some extent, disrespectful to Employer's authority. At the same time, Employee's email reaffirms that she would "do [her] job as [she] always had," thanked her Employer for the "effort," and expressed a "prefer[ence]" not to hear anything further about the incentive program. Thus, given the equivocal nature of this email and the inherent difficulty in assessing a speaker's true intent based solely on a "cold" record,[39] this Court cannot determine if Employee's email to Employer represents an isolated, sincere expression difficulty in working conditions from an otherwise satisfactory employee,[40] an expression of defiance from an insubordinate employee,[41] or something between these two extremes of the continuum. The determination of where Employee's email lies on this proverbial continuum is critical, because, after discounting the Board's erroneous reliance on Employee's absences from work, the alleged

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[37] *Id.* at 21.

[38] *See, e.g.,* 30 C.J.S. *Employer-Employee* § 75 ("An employee has the right [to] discuss the [grievances in working condition or employer's rules] with fellow employees and join with them in a peaceful and orderly presentation of the grievance.") (citation omitted).

[39] See, e.g., Brown v. State, 947 A.2d 1062, 1065 (Del. 2007) (noting that the Court "cannot possibly draw any significant factual conclusions or inferences" based on a "cold transcript.").

[40] *Cf. Mid-Atlantic Pain Inst. v. Wilkerson*, 2000 WL 973084, at *2 (Del. Super.) ("[U]ntil she walked out, Appellee was a diligent employee, putting in long hours and a lot of overtime. When she finally acted up, she was given no warning or an order that she disobeyed.").

[41] *See, e.g., Unemployment Ins. Appeal Bd. v. Martin*, 431 A.2d 1265, 1268 (Del. 1981) (find that the facts were sufficient to support the conclusion that the claimants were discharged for just cause when they left work to attend to personal business, given that the claimants "had been given explicit warnings that if they chose to disobey the order to remain at work they would be fired.").

insubordination demonstrated in Employee's emails is the sole remaining basis for the Board's finding of just cause for termination. This Court cannot determine if, after excluding the issue of Employee's absences, the Board would nonetheless have held that Employee was terminated for just cause; the Board merely stated that its decision was predicated on the "combin[ation]" of the foregoing factors. Thus, the grounds on which the Board acted are not "clearly disclosed," and this Court cannot "guess at the theory underlying" the Board's instant determination.[42] As previously observed by this Court, when the extent to which the Board relied on an erroneous finding is unclear, this "throws doubt on the validity of the Board's conclusion."[43] Therefore, this matter must be remanded to the Board for reconsideration of its determination, in light of the fact that Employer concedes that Employee's attendance issues did not provide just cause for her termination.[44]

CONCLUSION

Accordingly, for all the reasons stated above, the decision of the Unemployment Insurance Appeal Board is **REVERSED.** This case is **REMANDED** to the Unemployment Insurance Appeal Board for further proceedings consistent with this opinion.

Richard R. Cooch, R.J.

RRC/rjc
oc: Prothonotary
Unemployment Insurance Appeal Board

[42] *See State Farm Mut. Auto Ins. Co. v. Hale*, 297 A.2d 416, 419 (Del. Ch. Ct. 1972) ("Clearly the court cannot be required to guess at the theory underlying an agency's action. The orderly functioning of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained.") (citations and internal quotation marks omitted).

[43] *Am. First Mortgage v. Johnson*, 1995 WL 654041, at *3 (Del. Super.) ("The Court cannot determine how much of the Board's conclusion that claimant [was terminated for just cause] was due to its erroneous finding that her expected standard of conduct varied from one loan officer to another. This incorrect finding throws doubt on the validity of the Board's conclusion in this matter.").

[44] *See, e.g., E.I. DuPont De Nemours & Co. v. Downs*, 2003 WL 23274837, at *2 (Del. Super.) ("[T]he April 5, 2003 decision of the Unemployment Insurance Appeal Board awarding unemployment benefits is *REMANDED* for clarification as called for here.").