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Ms. Shirley Rodan
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Re: Shirley Rodan v. De-Lux Dairy Markets and Unemployment Insurance Appeal Board
C.A. No. 02A-08-001

Date Submitted: November 4, 2002

Dear Counsel and Ms. Rodan:

This is my decision on Shirley Rodan's ("Claimant") appeal of the Unemployment Insurance Appeal Board's (the "Board") decision denying her claim for unemployment benefits. The Board found that Claimant was not entitled to benefits because she voluntarily quit employment with De-Lux Dairy Markets ("Employer") without just cause. I affirm the Board's decision for the reasons stated herein.

NATURE AND STAGE OF PROCEEDINGS

Claimant quit her job with Employer on April 5, 2002, and filed for unemployment benefits on April 21, 2002. The claims deputy denied Claimant benefits after determining she

voluntarily left work without good cause. Claimant appealed, but the Appeals Referee ("Referee") affirmed the claims deputy's decision. Claimant appealed this decision to the Board. After hearing additional testimony, the Board upheld the Referee's finding that Claimant's failure to inform Employer of her grievances or use administrative remedies to rectify her complaints indicated she voluntarily quit without good cause.

FACTS

Claimant was hired as a part-time deli clerk for Employer's convenience store on April 7, 2001. After Mary Kimbler ("Kimbler") became the store's manager, Claimant's displeasure with her job grew. Claimant was dissatisfied with the lack of an on-duty manager during her evening shift, the insufficient security in the store's parking lot, and the uncontrolled theft within the store. These concerns were not conveyed to Employer by Claimant. Furthermore, Claimant was upset that her job required her to perform tasks in contravention of her doctor's orders not to lift, pull, or carry anything greater than five pounds. Although Claimant had notified her previous supervisors about her limitations, she did not make Kimbler aware of these restrictions. Lastly, Claimant had concerns about the store's safety. Her anxiety arose from an incident in January or February 2002, when flames scorched her pants after she hit uncovered wiring while cleaning behind the store's grill. This hazard was repaired by the operations manager.

Claimant quit on April 5, 2002, after a confrontation with Kimbler. Kimbler appeared at the store after receiving two phone calls at home from upset customers. When Kimbler arrived at the store, she questioned Claimant about the complaints. Agitated from an earlier confrontation with a customer, Claimant told the Kimbler she did not care about the complaints. Claimant quit, informing Kimbler she was tired of not having help in the store.

DISCUSSION

The Supreme Court and this Court repeatedly have emphasized the limited appellate review of the factual findings of an administrative agency. The function of the reviewing Court is to determine whether the agency's decision is supported by substantial evidence, Johnson v. Chrysler Corp., 312 A.2d 64, 66-67 (Del. 1965); General Motors v. Freeman, 164 A.2d 686, 688 (Del. 1960), and to review questions of law de novo, In re Beattie, 180 A.2d 741, 744 (Del. Super. 1962). Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Oceanport Indus. v. Wilmington Stevedores, 636 A.2d 892, 899 (Del. 1994); Battista v. Chrysler Corp., 517 A.2d 295, 297 (Del.), app. dism., 515 A.2d 397 (Del. 1986). The appellate court does not weight the evidence, determine questions of credibility, or make its own factual findings. Johnson v. Chrysler, 213 A.2d at 66. It merely determines if the evidence is legally adequate to support the agency's factual findings. 19 Del. C. § 3323.

According to 19 Del. C. § 3315(1), an individual who "left work voluntarily without good cause attributable to such work" is not eligible for unemployment benefits. "Good cause" has been defined as "such cause as would justify one in voluntarily leaving the ranks of the employed and joining the ranks of the unemployed." O'Neal's Bus Serv., Inc. V. Employment Sec. Comm'n, 269 A.2d 247, 249 (Del. Super. 1970) (citing Zielenski v. Bd. of Review, 203 A.2d 635 (N.J. Super. Ct. App. Div. 1964). The burden lies with the claimant to show that he or she voluntarily quit for good cause. Longobardi v. Unemployment Ins. Appeal Bd., 287 A.2d 690 (Del. Super. 1971), aff'd, 293 A.2d 295 (Del. 1972). To succeed with this claim, a claimant only

needs to demonstrate one instance of good cause. Dove v. MHL Refrigeration, Inc., Del. Super., C.A. No. 94A-07-003, Alford, J. (Mar. 31, 1995), at 7. However, an unsafe or undesirable work condition does not automatically produce good cause for a voluntary quit. O'Neal's Bus Serv., 269 A.2d at 249. For a quit to be considered for "good cause," the claimant "must do something akin to exhausting his administrative remedies by, for example, seeking to have the situation corrected by proper notice to his employer." Id. (citing Ala. Textile Prods. Corp. v. Rodgers, 82 So.2d 267 (Ala. Ct. App. 1955)); accord Sandefur v. Unemployment Ins. Appeals Bd., Del. Super., 92A-01-002, Goldstein, J. (Aug. 27, 1993) at 10 (an employee has "an obligation to inform an employer of resolvable problems and to make a good faith effort to resolve them before simply leaving").

The Referee found: "claimant had several complaints about her working conditions, including, but not limited to, performing tasks that violated restrictions her doctor had placed upon her. She never voiced these complaints to anyone in management." (Ref. dec. of 5/29/2002 at 2). The Board adopted the pertinent facts in the Referee's decision and heard additional testimony. Claimant told the Board she did not complain to Kimbler because she was not on duty during her shift. The operations manager testified that the employees were provided with a phone number to call to report their complaints, but Claimant never utilized this resource. The Board denied Claimant's benefits, ruling: "By claimant's own testimony, she did not put employer on notice of her grievances, nor did she attempt to resolve her problems administratively before quitting." (Bd. dec. of 7/29/02 at 1).

This Court does not deny that Claimant's concerns with her work conditions were serious. Nevertheless, Claimant concedes she never communicated her health and safety

concerns to Employer. The Board's decision that Claimant did not have good cause for her voluntary quit is supported by substantial evidence. Therefore, Claimant is not entitled to unemployment benefits.

CONCLUSION

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

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

cc: Prothonotary's Office
Unemployment Insurance Appeal Board