

June 20, 2002

Richard Legates  
P.O. Box 331  
Milton, DE 19968

Date Submitted: April 24, 2002

RE: Richard Legates v. Cannery Village & Unemployment Insurance Appeal Board  
C.A. No. 01A-08-004

Dear Mr. Legates:

This case comes before the Court on appeal from the Unemployment Insurance Appeal Board (the "Board"), which affirmed the Appeals Referee's conclusion that Richard Legates ("Appellant") is disqualified from receiving unemployment benefits.<sup>1</sup>

#### STATEMENT OF FACTS

This case stems from the employment contract between Appellant and his employer, Cannery Village, located in Milton, Delaware. Cannery Village hired Appellant to perform maintenance work at the rate of \$8.50 an hour in October of 2000. During his term of employment with Cannery Village, Appellant began to feel that the other employees were discriminating against him. On

---

<sup>1</sup> No attorney appeared in this Court on behalf of Cannery Village. That company's office manager submitted a letter seeking an affirmance of the decision below. He is not an attorney. The letter is stricken and the Court does not consider it.

May 9, 2001, Appellant quit his job at Cannery Village and sought unemployment benefits. Before the Appeals Referee for the Department of Labor, Appellant referred to several undocumented events in support of his contention that he had good cause for voluntarily terminating his employment with Cannery Village. Appellant cited the following incidents, among other more general allegations, as support for a finding good cause: (1) he was involved in an on-the-job accident which resulted in a back injury; (2) he was threatened and generally harassed by management; and (3) he was threatened while on the job by a third party. The Referee made the following findings of fact:

This tribunal finds that the employer is a small operation with only six employees including the claimant. The company was formed on October 11, 2000. They are working at dismantling the old cannery and developing new homes. The company is a subsidiary of Fairfield Farms. At the beginning, the employer representative discussed with the claimant that he would be performing services for other companies within Draper Holdings. All of the employees work this way. All of the claimant's job duties were within the maintenance person's description. The employer representative told the claimant that he would be doing maintenance work all over. The claimant was not singled out. The claimant was out from work one day due to a cold. That is the only medical issue that the employer was aware of. No claim was filed saying that he had hurt his back. There are no written reports of any accidents.

The day before the claimant quit, he went to the owner's estate and farm and fixed pipes. When he returned, he parked on the road in front of the office. The other employee with him went in to turn in their receipts and then they were going to the shop. The operations manager came out and seemed mad. The claimant felt that the operations manager acted in a threatening manner. The next day the claimant came to work. He then went to Fairfield Farms and got a list of things to do. He was to mow the grass at the farm. The mower had been broken and a part had been wired on. He started to mow and the part that was wired broke off. He had only driven 50 feet. He tied the wire up and started mowing again. The part broke off again. This happened several times. He did not have any tools with him. He took the mower back to the shop and parked it. He waited there and saw some strangers on the property. It looked to him like one of the men had a shotgun or rifle. He heard someone say to get off of his farm. He left the farm and walked back to the office. The employer representative asked the claimant what he was doing there. The claimant was disgusted and aggravated. He did not say anything about the events of that morning. He said that he would have his stuff out and he would see them in court.



The Referee concluded that Appellant was not entitled to unemployment benefits because he failed to exhaust his administrative remedies by reporting his discontent to his employer. The Board adopted the Referee's findings of fact and conclusions of law on appeal.

#### ISSUES PRESENTED

Appellant argues that the evidence in the record does not support the Board's legal conclusion that he lacked good cause to justify his voluntarily termination of employment.

#### DISCUSSION

##### A. *Standard of Review*

In reviewing the decisions of the Board, this Court must determine whether the Board's findings and conclusions are free from legal error and supported by substantial evidence in the record.<sup>2</sup> *Unemployment Ins. Appeal Bd. v. Martin*, 431 A.2d 1265 (Del. 1981); *Ponchvatilla v. United States Postal Serv.*, Del. Super., C.A. No. 96A-06-19, Cooch, J. (June 9, 1997), Mem. Op. at 2; 19 Del. C. § 3323(a) ("In any judicial proceeding under this section, the findings of the [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."). In looking for "substantial evidence," the Court is looking for "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Gorrell v. Division of Vocational Rehab. and Unemployment Ins. Appeal Bd.*, Del. Super., C.A. No. 96A-01-001, Graves, J. (July 31, 1996), Letter Op. at 4. Moreover, "[i]t is not the appellate court's role to weigh the evidence, determine credibility questions or make its own factual findings, but merely to decide if the evidence is legally adequate to support the

---

<sup>2</sup> The Court ignores any new facts or evidence Appellant submits since this review is on the record only.

agency's factual findings." *McManus v. Christina Service Co.*, Del. Super., C.A. No. 96A-06- 013, Silverman, J. (Jan. 31, 1997), Opinion and Order at 4.

*B. The Right to Unemployment Benefits*

Section 3315 of Title 19 of the Delaware Code provides, in relevant part:

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.

Under this section, the claimant has the burden of proving "good cause." *Longobardi v. Unemployment Ins. Appeal Bd.*, 287 A.2d 690, 692 (Del. Super. 1971). Unless an employee does "something akin to exhausting his administrative remedies by, for example, seeking to have the situation corrected by proper notice to his employer," good cause to quit one's job does not exist "merely because there is an undesirable or unsafe situation connected with his employment." *O'Neal's Bus Serv., Inc. v. Employment Sec. Comm'n*, 269 A.2d 247, 249 (Del. Super. 1970).

Appellant testified that he was disgruntled with the conditions, some general and some specific, of his employment with Cannery Village. However, Appellant did not give his employer any notice as to his complaints with his employment prior to walking off the job. Without notice, Cannery Village cannot be held responsible for Appellant's willful termination of his employment.

After a review of the record, the Court is satisfied that the Board's findings and decision are supported by substantial evidence and are free from legal error. For the foregoing reasons, the decision of the Board denying unemployment benefits is affirmed.

**IT IS SO ORDERED.**

Very Truly Yours,

T. Henley Graves

cc: Prothonotary's Office  
Cannery Village, attn: Dennis Sabato