

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

<b>AMY CHRISTOPHER</b>	)	
	)	
<b>Appellant,</b>	)	
	)	
<b>v.</b>	)	<b>C.A. No. 01A-03-008-FSS</b>
	)	
<b>DEMETRIOS M. ZEREFOS, D.O.,</b>	)	
	)	
<b>Appellee.</b>	)	

**Submitted: August 10, 2001**  
**Decided: November 26, 2001**

**ORDER**

**Upon Appeal From the Unemployment Insurance Appeal Board -- *AFFIRMED***

Ms. Amy Christopher, 12 Rambo Terrace, New Castle, Delaware, 19720. *Pro Se* Appellant.

John J. Conly, Esquire, 301 S. DuPont Road, Suite H, Wilmington, Delaware, 19804. Attorney for Appellee.

**SILVERMAN, J.**

**This is an appeal from a decision by the Unemployment Insurance Appeal Board denying benefits to Amy Christopher, a former employee of a medical office. The Board found that Christopher walked off the job and she quit.**

**Appellant is representing herself. Because her ability to communicate in writing is limited and she does not understand civil procedure, the court's first task is to articulate the grounds for appeal. As discussed below, it appears that Christopher contends that the Board's conclusion that she quit is not supported by the evidence. Christopher has reviewed the record, identifying several inaccuracies or inconsistencies in her former employer's case. Christopher also attempts to expand the record now by offering new evidence, which is not permissible because the court's role here is to review the record already made by the Board.<sup>1</sup> This is an appeal, not a new trial.**

## **I.**

**As a matter of fact, it appears that everyone agrees that Christopher worked in Dr. Zerefos' medical office. Everyone also agrees that Christopher and another employee, Tina McCall, got into an argument on November 2, 2000.**

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<sup>1</sup> *See infra* IV.

**While the parties disagree about exactly what happened, they agree that both employees walked out of the doctor's office, leaving a waiting room full of patients. The parties also seem to agree that after exchanging words, Christopher and McCall each left. McCall returned to the office the next day. Finally, the parties agree that Christopher returned to work the following Monday and her employer let her stay for a few hours to close out some files. He did not let her back on the job the next day.**

The factual record is difficult to navigate. Given the circumstances, it appears that the Board's decryption of the record was adequate, at least. At the hearing, Christopher testified that on November 2<sup>nd</sup>, she and McCall had an altercation. Christopher stated that she followed McCall outside the building attempting to retrieve her. Christopher claims she did not quit her job, because she needed the health benefits. McCall also testified. She stated that she walked out and Christopher followed her saying, "[t]hey want you back in there, I quit." At that point, McCall left, and Christopher, having first announced that she quit, also left. McCall further testified that she came back on the next day, Friday, at Zerefos' request, but Christopher was not at work.

Zerefos testified that he had "warned [Christopher] about her behavior" on previous occasions. He stated that before the incident, he had offered Christopher

a part-time position. Zerefos said that after the incident, he explained to Christopher's husband that Zerefos "could not have [Christopher] back" because "this happened repeatedly." He stated that "[s]he walked out of the office and . . . she abandoned her job. And I was not going to hire her back because of all the problems we had before."

Christopher focuses on ambiguities about some details, including when the incident occurred, and she has a point. Although he did not recall the exact date, Zerefos testified that the incident occurred on "a Thursday and it was in the first week in November." The uncertainty about the dates lends support to Christopher's claim that the employer's position is contrived. But the uncertainty is not conclusive.<sup>2</sup>

## II.

From the record, it is clear that the administrative proceedings were a challenge. Initially, the claims deputy awarded Christopher's unemployment benefits. Zerefos appealed, and an Appeals Referee reversed the award. The Referee found that Christopher "was not fired but quit her job for personal reasons not attributable to her work."

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<sup>2</sup> ***Panzer v. Unemployment Ins. Appeal Bd.*, Del. Super., C.A. No. 93A-04-001, Silverman, J. (May 17, 1994) (ORDER).**

Christopher appealed the Referee's decision. The Board affirmed, finding that:

Employer might have been justified in terminating claimant because of her behavior, . . . a termination did not occur in this case. Rather, the Board finds that claimant voluntarily quit her employment without good cause attributable to the work by walking off the job on November 2, 2000.

As a matter of law, if Christopher quit without justification, she is not entitled to benefits.<sup>3</sup> That is why the Court must examine the record to determine whether substantial evidence supports the Board's conclusion that Christopher quit without good cause.

Essentially, Christopher contends that she is entitled to benefits because she did not quit. She maintains that she had a vacation day the day after the incident, Friday, and she expected to return to work, as normal, on the following Monday. She claims that Zerefos terminated her on Tuesday. Zerefos contends that Christopher quit when she walked off the job following the altercation. He claims that he did not request Christopher's return and was surprised when she returned on Monday. As mentioned, the Board sided with Zerefos.

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<sup>3</sup> *See 19 Del. C. § 3315(1).*

### III.

The Court's authority on appeal is limited by 19 *Del. C.* § 3323(a).<sup>4</sup> The Court determines only whether there is satisfactory proof to support a factual finding.<sup>5</sup> The Court's determination is limited to the record.<sup>6</sup> Witness credibility, testimony weight and any reasonable inferences to be drawn are the Board's determination.<sup>7</sup> The Court has no authority to disregard the Board's decision about

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<sup>4</sup> 19 *Del. C.* § 3323(a): **In any judicial proceedings under this section, the findings of the Unemployment Insurance Appeal Board as to the facts, if supported by the evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the Court shall be confined to questions of law.**

<sup>5</sup> *Unemployment Insurance Appeal Board v. Duncan*, Del. Supr., 337 A.2d 308, 309 (1975); *Abex Corp. v. Todd*, Del. Super., 235 A.2d 271, 293 (1967).

<sup>6</sup> *Hubbard v. Unemployment Ins. Appeal Board*, Del. Supr., 352 A.2d 761, 763 (1976).

<sup>7</sup> *Coleman v. Department of Labor*, Del. Super., 288 A.2d 285, 287 (1972).

who was believable. If the Board's decision is supported by the evidence and there is no mistake in law, the Board's decision stands.<sup>8</sup> And, if the Board's interpretation of the evidence is supported by the record the Board's decision will be upheld.<sup>9</sup>

#### IV.

It is clear that after the Board reviewed the relevant testimony and evidence, it found that Christopher walked off the job and she quit. That finding is almost unassailable. Christopher left the job suddenly during a workday, telling a co-worker, "I quit." The Board heard testimony from which it could conclude that when she abruptly left, Christopher's intent, albeit impetuous, was to quit. And, her attempt to return the following week merely reflected her after-the-fact change of heart. By the same token, the fact that Christopher's employer let her work a final shift does not necessarily support a finding that the employer initially ignored or forgave Christopher's behavior and then fired Christopher on the second work day after the walk out, when she tried to report to work.

The Court appreciates Christopher's point about conflicting evidence and that the record is not perfect, but it still forms an adequate basis for the Board's

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<sup>8</sup> *Longobardi v. Unemployment Ins. Appeal Board*, Del. Super., 287 A.2d 690, 692 (1971), *aff'd*, Del. Supr., 293 A.2d 295 (1972).

<sup>9</sup> *Abex*, 235 A.2d at 274.

decision. Therefore, the Court will not disturb the Board's findings. In short, once the Board decided that Christopher left work during her shift and she announced that she quit, the Board could conclude that Christopher quit her job. And if she quit, she is not legally entitled to unemployment benefits. Furthermore, the court is satisfied that Zerefos would have been entitled to fire Christopher for wilful misconduct based on the way she behaved when she walked off the job, leaving Zerefos in the lurch. This is especially so, considering that Zerefos had warned her in the past.

**V.**

For the foregoing reasons, the Board's February 21, 2001 decision is

**AFFIRMED.**

**IT IS SO ORDERED.**

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Judge

cc: Prothonotary (Civil Division)