IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

ANNETTE VAUGHN,	:	
	:	**C.A. No: K14A-09-001 RBY**
_____Appellant,	:	
	:	
v.	:	
	:	
UNEMPLOYMENT INSURANCE APPEALS BOARD,	:	
	:	
Appellee.	:	

Submitted: March 12, 2015
Decided: March 18, 2015

Upon Consideration of Appellant's Appeal from the Unemployment Insurance Appeal Board
AFFIRMED

ORDER

Annette Vaughn, *Pro se*.

Paige J. Schmittinger, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware for The Unemployment Insurance Appeals Board.

Young, J.

SUMMARY

The present appeal arises out of the holding of the Unemployment Insurance Appeal Board ("the Board"), disqualifying Annette Vaughn ("Appellant") from receiving unemployment insurance benefits. Appellant had been previously employed by Community Alternatives ("Appellee"), prior to being terminated on April 29, 2014. Following a customer complaint, despite Appellee's two admonitions not to speak to the complaining customer, Appellant nonetheless contacted the customer.

Reviewing the decision of the Appeals Referee, the Board affirmed the finding that Appellant's termination had been for just cause, as per 19 *Del. C.* § 3314(2), making her ineligible for unemployment benefits. The Court finds that the Board's decision was properly founded in substantive evidence and was free from legal error. The decision of the Board is **AFFIRMED**.

FACTS AND PROCEDURAL POSTURE

Appellant was employed by Appellee, as a Quality Support Associate from April 3, 2001 to April 29, 2014, at Appellee's Fox Hall location. Following a customer complaint against her, received by Appellee on April 23, 2014, Appellant was terminated from her position. After receipt of the complaint, Appellee advised Appellant that there would be a meeting, to be held on April 25, 2014, to investigate the matter further for resolution. Appellant was also informed by Appellee's representative, Lisa Sylvain, the House Manager, that Appellant was not to contact the customer directly. Appellant disregarded Appellee's prohibition, reaching out to the complaining customer personally. Sylvain, upon learning of this, instructed

Appellant, again, to forgo interaction with the customer. Appellant continued to communicate with the customer, despite this second warning from Appellee. Appellant was promptly discharge on April 29, 2014.

On May 21, 2014, the Department of Labor ("Department") issued a determination that Appellant was disqualified from receiving unemployment insurance benefits, pursuant to 19 *Del. C.* § 3314(2), as she had been discharged by Appellee, for just cause. Appellant appealed this determination to the Appeals Referee ("Referee"). On June 18, 2014, following a hearing on the matter, the Referee affirmed the determination of the Department, finding that, as Appellant had twice disregarded a clear command, her insubordination rose to the level justifying termination, under 19 *Del. C.* § 3314(2). On Appeal, the Board affirmed the decision of the Referee, on August 6, 2014, for much the same reasons:

> Claimant was told not to confront her client by her house manager, yet she chose to ignore this directive. Her insubordinate conduct rises to the level of just cause required by 19 *Del. C.* § 3314(2). Consequently, the Board must affirm the decision of the Referee.[1]

STANDARD OF REVIEW

For administrative board appeals, this Court is limited to reviewing whether the Board's decision is supported by substantial evidence and free from legal errors.[2] Substantial evidence is that which "a reasonable mind might accept as adequate to

[1] Board's Opinion, at 2.

[2] 29 *Del. C.* §10142(d); *Avon Prods. v. Lamparski*, 203 A.2d 559, 560 (Del. 1972).

support a conclusion."[3] It is "more than a scintilla, but less than preponderance of the evidence."[4] An abuse of discretion will be found if the board "acts arbitrarily or capaciously...exceeds the bounds of reason in view of the circumstances and has ignored recognized rules of law or practice so as to produce injustice."[5] Where an agency has interpreted and applied a statute, the court's review is *de novo*.[6] In the absence of an error of law, lack of substantial evidence or abuse of discretion, the Court will not disturb the decision of the board.[7]

DISCUSSION

Where an employee is terminated for just cause, 19 *Del. C.* § 3314(2) provides this employee will be disqualified from receiving unemployment benefits. In analyzing whether Appellant's termination was for just cause, the Board must determine whether Appellant engaged in "a willful or wanton act or pattern of conduct in violation of the employer's interest, employee's duties, or the employee's expected standard of conduct."[8] "Wanton connotes a heedless, malicious or reckless

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[3] *Olney v. Cooch*, 425 A.2d 610, 614 (Del. Super. Ct. 1981) (citing *Consolo v. Fed. Mar. Comm'n*, 383 U.S. 607, 620 (1966)).

[4] *Id.* (quoting *Cross v. Calfano*, 475 F.Supp. 896, 898 (M.D. Fla. 1979)).

[5] *Delaware Transit Corp. v. Roane*, 2011 WL 3793450, at *5 (Del. Super. Ct. Aug. 24, 2011) (quoting *Straley v. Advanced Staffing, Inc.,* 2009 WL 1228572, at *2 (Del. Super. Ct. Apr. 30, 2009).

[6] *Lehman Brothers Bank v. State Bank Commissioner,* 937 A.2d 95, 102 (Del. 2007).

[7] *Anchor Motor Freight v. Ciabattoni,* 716 A.2d 154, 156 (Del. 1998).

[8] *Majaya v. Sojourner's Place*, 2003 WL 21350542, at *4 (Del. Super. Ct. Jun. 6, 2013) (internal quotations omitted).

act, but does not require actual intent to cause harm."[9] Willful "implies actual, specific or evil intent." "Where an employer specifically informs the employee regrading the kind of behavior that is prohibited, the employee is deemed aware of such..."[10] "Consequently, when an employee proceeds to do what she knows is prohibited, her conduct is reckless and justifies termination."[11]

It is not the role of this Court to act as fact-finder in an appeal from an administrative board.[12] The decision of the Board is to be affirmed, unless the Court finds that its opinion is against the great weight of evidence.[13] The Court finds that the Board properly investigated the sources of evidence presented it, basing its decision on substantial evidence. Courts interpreting 19 *Del. C.* § 3314(2), have found that where an employee is specifically told not to engage in certain conduct, and yet proceeds to do so, such insubordination rises to the level to support just cause for termination.[14] The Board, in the instant matter, affirmed the Referee's finding of just cause for termination as "[c]laimant was told not to confront her client by her

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[9] *Boughton v. Div. of Unemployment Ins. Of Dept. Of Labor*, 300 A.2d 25, 26 (Del. Super. Ct. 1972).

[10] *Edgemoor Cmty Ctr v. Black*, 2011 WL 7457651, at *3 (Del. Super. Ct. Oct. 25, 2011).

[11] *Id.*

[12] *Bernhard v. Phoenix Mental Health*, 2004 WL 304358, at *1 (Del. Super. Ct. Jan. 30, 2004).

[13] *Hall v. City of Wilmington*, 1978 WL 186829, at *2 (Del. Super. Ct. Jan. 27, 1978).

[14] *Edgemoor Cmty*, 2011 WL 7457651 at *3.

house manager, yet she chose to ignore this directive."[15] The Board had, precisely, the requisite amount of evidence to affirm the decision of the Referee, given this "just cause" scheme recognized by the case law.

In addition, the Board grounded its disqualification of Appellant upon the governing statue 19 *Del. C.* § 3314(2). Where there is just cause for discharge, an applicant is ineligible for unemployment benefits. Finding that the termination was just, the Board properly followed the call of the statute in denying Appellant's application for benefits. The Court finds no error of law in the Board's determination.

CONCLUSION

From the extensive record, the Board, in its permitted discretion, concluded that Appellant's behavior on the date in question was in direct violation of her employer's explicitly conveyed prohibition. This was a reasonable finding based upon substantial evidence. Moreover, the ultimate decision to disqualify Appellant from receiving unemployment benefits was based upon the controlling statute, and, hence, free from legal error. The decision of the Board is **AFFIRMED**.

IT IS SO ORDERED.

/s/ Robert B. Young
J.

RBY/lmc
oc: Prothonotary
cc: Counsel
Annette Vaughn, *Pro se*
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[15] Board's Opinion, at 2.