

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

KARL OWENS,	)	
	)	
Appellant,	)	C.A. No. N14A-09-005 RRC
v.	)	
	)	
AUTO REPAIR SPECIALIST and	)	
UNEMPLOYMENT INSURANCE	)	
APPEALS BOARD,	)	
	)	
Appellee.	)	

Submitted: October 7, 2015  
Decided: December 29, 2015

On Appeal from a Decision of the Unemployment Insurance Appeals Board.  
**AFFIRMED.**

**ORDER**

Karl Owens, New Castle, Delaware, *pro se*, Appellant.

Matthew P. Donelson, Esquire, Eckert Seamans Cherin & Mellott, LLC,  
Wilmington, Delaware, Attorney for Auto Repair Specialist.

COOCH, R.J.

This 29th day of December, 2015, on appeal from a decision of the Unemployment Insurance Appeals Board, it appears to the Court that:

1. Appellant Karl Owens worked as an auto mechanic for Auto Repair Specialist (“ARS”)<sup>1</sup> from October 2013 until February 28, 2014.<sup>2</sup> On March 9, 2014, Mr. Owens filed for unemployment benefits and was

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<sup>1</sup> The exact name of Appellee is not clear from the record.

<sup>2</sup> R. at 21.

denied, because he was found “to have abandoned his job” voluntarily.<sup>3</sup> Specifically, the Delaware Department of Labor found that Mr. Owens failed to return to work after getting into an argument with Mr. Patrick Connell about some missing diesel injectors.<sup>4</sup> Furthermore, the Department found Mr. Owens did not contact ARS for 13 days, until he returned to retrieve his toolbox and paycheck.<sup>5</sup> Mr. Owens appealed the disqualification and was referred to the Appeals Referee for a determination of benefits eligibility.

2. An Appeals Referee held a hearing on May 19, 2014, with Mr. Owens and ARS, both of whom were represented by counsel.<sup>6</sup> On June 4 the Appeals Referee determined that Mr. Owens had voluntarily terminated his employment with ARS. The Referee found Mr. Owens had failed to report to work or contact his employer following the confrontation “until a week later when he retrieved his paycheck and tools.”<sup>7</sup> Mr. Owens timely appealed to the Unemployment Insurance Appeals Board (“Board”).<sup>8</sup>
3. The Board issued a decision upholding the Appeals Referee’s decision on July 30, 2014. The Board also held Mr. Owens “left his employment without good cause connected to his work.”<sup>9</sup> Mr. Owens timely appealed the Board’s decision to this Court.
4. Mr. Owens filed an opening brief *pro se* with this Court.<sup>10</sup> In it, he argues: (1) he was actually terminated from his employment; (2) his past criminal history was improperly mentioned in the hearing before the Appeals Referee; and (3) Mr. Connell gave improper testimony that “other employees heard the argument.”<sup>11</sup>

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<sup>3</sup> *Id.* at 7.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> R. at 16-36.

<sup>7</sup> *Id.* at 38-39.

<sup>8</sup> *Id.* at 37-40; *See also* Appeal Request Notification, R. at 43-44.

<sup>9</sup> R. at 68.

<sup>10</sup> The Board filed a letter with this Court on January 2, 2015, that stated it took no position on Mr. Owens’ appeal, and did not intend on filing an answering brief.

<sup>11</sup> Appellant’s Opening Br. at 1-2.

5. This Court's review of a Board decision is limited to a determination of whether it is supported by substantial evidence and free from legal error.<sup>12</sup> Substantial evidence requires "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."<sup>13</sup> It is within the province of the Board, not this Court, to weigh evidence, make findings of fact, and make determinations based on credibility.<sup>14</sup> Reversal for abuse of discretion will be established 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.'"<sup>15</sup>
6. This Court finds no legal error or abuse of discretion on the part of the Board. Substantial evidence appears on the record to justify the Board's finding that Mr. Owens voluntarily terminated his employment without just cause. "Just cause," by definition, refers to a "willful or wanton act in violation of either the employer's interest, or the employee's expected standard of conduct."<sup>16</sup> After hearing testimony from both Mr. Owens and Mr. Connell, the Referee found that Mr. Owens left his employment and did report for work on the next scheduled workday.<sup>17</sup> The Referee also found that Mr. Owens did not contact ARS until he returned to retrieve his tools and final paycheck. After a hearing by the Board, the findings were upheld.
7. Mr. Owens' three arguments are not enough for this Court to disturb the findings of the Board. In his first claim, Mr. Owens does not offer anything besides a conclusory statement that he was not terminated. Such a review would require a credibility determination about his and Mr. Connell's testimony. And since this Court does not determine the credibility of witnesses, Mr. Owens' first ground for relief fails to demonstrate why the Board's decision should be overturned.

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<sup>12</sup> See *Unemployment Ins. Appeal Bd. v. Martin*, 431 A.2d 1265, 1266 (Del 1981).

<sup>13</sup> *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).

<sup>14</sup> See *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del 1965).

<sup>15</sup> *Straley v. Advanced Staffing, Inc.*, 2009 WL 1228572, at \* 2 (Del. Super. Apr. 30, 2009) (internal citations omitted).

<sup>16</sup> *Wilson v. Unemployment Ins. Appeal Bd.*, 2011 WL 3243366, at \*2 (Del. Super. Jul. 27, 2011).

<sup>17</sup> R. at 68.

8. As for Owens' second claim, it also fails to meet the burden for this Court to reverse the Board's decision. During the hearing before the Referee, Mr. Connell's attorney stated that he had documents that showed Mr. Owens previously pleaded guilty to insurance benefits fraud and theft of auto parts.<sup>18</sup> In response, the Referee stated, "I'm just going to disallow it; I'll make the credibility determination myself based on the testimony that's been offered."<sup>19</sup> Reference to Owens's criminal history was not improper, because the Delaware Rules of Evidence do not apply to administrative appeals.<sup>20</sup> Furthermore, that criminal history is not mentioned at any other point in either hearing or written decision. Lastly, the Appeals Referee stated that he was "just going to disallow [the evidence]." Therefore, Mr. Owens is not entitled to reversal of the Board's decision.
9. Finally, Mr. Owens's assertion that the decision should be reversed because Mr. Connell testified that other employees heard their argument is unpersuasive. While testifying to the Board, Mr. Connell stated, *inter alia*, "Mr. Owens became so loud that multiple people inside of the office started coming to the office to see what the disruption was."<sup>21</sup> The Court can find no legal error in Mr. Connell testimony. Therefore, Mr. Connell's statement does not compel this Court to disrupt the finding of the Board.

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<sup>18</sup> *Id.* at 31.

<sup>19</sup> *Id.* at 32.

<sup>20</sup> *Baker v. Hosp. Billing & Collection Serv., Ltd.*, 2003 WL 21538020, at\* 3 (Del. Super. Apr. 30, 2003) ("Administrative boards are not constrained by the rigid evidentiary rules which govern jury trials, but should hear all evidence which could conceivably throw light on the controversy. Therefore, an informal tribunal, such as the [Board], is not bound by the Delaware Rules of Evidence."). The Court acknowledges that if the Rules of Evidence did apply to this hearing, it's highly likely that Mr. Owens' criminal background would be admissible, because he testified and was convicted of crimes of dishonesty.

<sup>21</sup> *R.* at 56.

Therefore, the Board's decision is **AFFIRMED**.

**IT IS SO ORDERED.**

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Richard R. Cooch, R.J.

oc: Prothonotary

cc: Unemployment Insurance Appeals Board

Paige J. Schmittinger, Esquire, Deputy Attorney General