IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

ROBERT LEE WILLIAMS,	)	
	)	
Claimant-Below-Appellant,	)	
	)	
v.	)	C.A. No. N17A-04-004 RRC
	)	
GOODWILL INDUSTRIES OF DELAWARE AND DELAWARE COUNTY,	)	
	)	
Employer-Below-Appellee	)	
	)	
and	)	
	)	
UNEMPLOYMENT INSURANCE APPEAL BOARD.	)	

Submitted: September 7, 2017
Decided: November 27, 2017

On Appeal From a Decision of the Unemployment Insurance Appeal Board.
AFFIRMED.

ORDER

Robert Lee Williams, Wilmington, Delaware, *pro se*, Appellant.

Jennifer C. Jauffret, Esquire and Lori A. Brewington, Esquire, Richards, Layton & Finger, Wilmington, Delaware, Attorneys for Appellee Goodwill Industries of Delaware and Delaware County.

Carla A.K. Jarosz, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware, Attorney for the Unemployment Insurance Appeal Board.

COOCH, R.J.

This 27th day of November 2017, upon consideration of Appellant's appeal from the decision of the Unemployment Insurance Appeal Board,[1] it appears to the Court that:

1. Claimant-Below/Appellant has appealed a decision of the Unemployment Insurance Appeal Board ("UIAB") denying his petition for unemployment benefits. On appeal, Appellant essentially argues that he was not terminated for just cause. This argument is unsupported by the record. Accordingly, this Court **AFFIRMS** the decision of the UIAB.

2. Appellant was an employee of Goodwill Industries of Delaware and Delaware County ("Appellee").[2] Appellee contracts with Delaware State Agencies to provide janitorial services at several locations, such as the New Castle County Courthouse where Appellant was employed as a janitor.[3] On December 21, 2016 Appellee terminated Appellants employment[4] because of "threatened or actual physical violence and the use of profane abusive language[.]"[5]

3. The incident occurred during a meeting between the Appellant, the Goodwill Janitorial Area Manager, Kenneth Ross ("Ross"), and two Goodwill Janitorial Supervisors, Robert Johnson ("Johnson") and Arnecia Washington ("Washington").[6] During the meeting, Appellant stated "[m]y son is in jail. I am paying all this money because of him. If anybody f***s with me I will kill them. I ain't going to let no

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[1] Despite being named in the above caption on appeal, the Unemployment Insurance Appeal Board has advised this Court of its intent to refrain from filing an answering brief in this matter as the Appellant only challenges the decision of the Board on the merits.
[2] UIAB App. at 58.
[3] *Id.* at 45, 58.
[4] *Id.* at 15.
[5] *Id.* at 18.
[6] *Id.* at 65.

f******g body hurt me." [7] Appellant reiterated that he will "kill anybody."[8]

4. At the hearing before the Appeals Referee on February 16, 2017, Ross, Johnson, and Washington testified that they felt that their lives were in danger.[9] Appellant admitted at the hearing that he made the statements to Ross, Johnson, and Washington because he was "frustrated and upset."[10]

5. On February 21, 2017, the Appeal's Referee denied Appellant's petition for unemployment benefits because Appellant was discharged for just cause as his actions rose to the level of "willful and wanton misconduct."[11] The UIAB affirmed that decision on April 19, 2017.[12] Appellant now appeals that decision to this Court.

6. On appeal, Appellant appears to argue that he is entitled to unemployment benefits because he was not terminated for just cause.[13] Appellant alleges that if he had made threatening comments "[he] would be in jail by now[.]"[14]

7. In response, Appellee asserts that this Court on appeal may not exercise the function of the UIAB and "weigh evidence, determine questions of credibility, and make its own factual findings and conclusions."[15] Thus, because the UIAB found substantial evidence that Appellant acted "willfully and wantonly against known policies of [Appellee] against workplace violence and abusive language,"[16] the UIAB decision should be affirmed.

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[7] *Id.*
[8] *Id.*
[9] *Id.* at 23 ("Q. Do you feel like . . . your life was in danger? [Ross]. Yes."); *id.* at 25-26 ("Q. Did you feel threatened? [Johnson]. Yes."; *id.* at 28 ("Q. Did you feel threatened for your life? [Washington]. Yes, I did.").
[10] *Id.* at 37-38.
[11] *Id.* at 57-59 (affirming the determination of the Claim Deputy below that Appellant's misconduct was willful and that Appellant is therefore not entitled to unemployment benefits).
[12] *Id.* at 93.
[13] Appellant's Op. Br.
[14] *Id.*
[15] Appellee's Answ. Br. at 12.
[16] UIAB App. at 93.

8. "It is well established that an appeal from an administrative board's final order to this Court is confined to a determination of whether the UIAB's decision is supported by substantial evidence and is free from legal error."[17] Substantial evidence is evidence "that a reasonable mind might accept as adequate to support a conclusion."[18] This Court will not "weigh evidence, determine questions of credibility, or make its own factual findings[.]"[19] "Absent an error of law, the [UIAB's] decision will not be disturbed where there is substantial evidence to support its conclusions."[20] "In reviewing the record for substantial evidence, the Court will consider the record in the light most favorable to the party prevailing below."[21]

9. The UIAB decision below was supported by substantial evidence and thus will not be reversed. Pursuant to 19 *Del. C.* § 3314(2):

> An individual shall be disqualified for benefits:
>
> (2) For the week in which the individual was discharged from the individual's work for just cause in connection with the individual's 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. Wage credits earned in such work, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall not constitute employer's benefits wages in connection with §§ 3349-3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title when an individual becomes eligible for benefits upon separation from a subsequent employer.[22]

"'Just cause' is defined as a willful or wanton act or pattern of conduct in violation of the employer's interest, the employee's duties, or the

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[17] *Eaton v. Arch Telecom, Inc.*, 2017 WL 4857110, at *1 (Del. Super. Ct. Oct. 25, 2017) (citing *Unemployment Ins. Appeal Bd. v. Duncan*, 337 A.2d 308 (Del. 1975)).
[18] *Eaton*, 2017 WL 4857110, at *1.
[19] *Fordham v. Little Blessings Daycare*, 2017 WL 4457210, at *2 (Del. Super. Ct. Oct. 4, 2017).
[20] *Charleron v. Premier Staffing Sols.*, 2017 WL 3841596, at *1 (Del. Super. Ct. Sept. 1, 2017).
[21] *Pochvatilla v. U.S. Postal Serv.*,1997 WL 524062, at *2 (Del. Super. Ct. June 9, 1997).
[22] 19 *Del. C.* § 3314(2).

employee's expected standard of conduct."[23] "Violation of a reasonable company rule may constitute just cause for discharge if the employee is aware of the policy and the possible subsequent termination."[24] This Court applies a two-step test to determine whether just cause existed to warrant the termination: "1) whether a policy existed, and if so, what conduct was prohibited, and 2) whether the employee was apprised of the policy, and if so, how was he made aware."[25] "Knowledge of a company policy may be established by evidence of a written policy, such as an employer's handbook[.]"[26]

10. The UIAB found that substantial evidence existed in the record that Appellee has an Employee Handbook.[27] The Handbook includes conduct that Appellee considers a "major offense" that may warrant termination.[28] Such conduct includes "threatened or actual physical violence and the use of profane or abusive language."[29] Appellant acknowledges that he received the Handbook and that he made threatening remarks.[30] As such, the UIAB found that "[Appellant] acted willfully and wantonly against known policies[.]"[31] Therefore, the UIAB had just cause to terminate Appellant.

11. Moreover, this Court will not disturb the decision of the UIAB below absent a showing of legal error or that the UIAB's decision was unsupported by substantial evidence. As there was no legal error and the findings below were supported by substantial evidence in the record, the decision of the UIAB is **AFFIRMED**.

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[23] *Pochvatilla v. U.S. Postal Serv.*, 1997 WL 524062, at *2 (Del. Super. Ct. June 9, 1997) (quoting *Avon Prod., Inc. v. Wilson*, 513 A.2d 1315, 1317 (Del. 1986)).
[24] *Wilson v. Unemployment Ins. Appeal Bd.*, 2011 WL 3243366, at *2 (Del. Super. Ct. July 27, 2011).
[25] *Id.* (quoting *McCoy v. Occcidental Chem. Corp.*, 1996 WL 111126, at *3 (Del. Super. Ct. Feb. 7, 1996)).
[26] *Wilson*, 2011 WL 3243366, at *2.
[27] UIAB App. at 93.
[28] *Id.*
[29] *Id.*
[30] *Id.*; *see also id.* at 37-38, 39 ("Referee []: Again, I have to refer you back to the comments they made, that it occurred in the office and that you were using threatening language. [Appellant]: Yes, I did.").
[31] *Id.* at 93.

IT IS SO ORDERED.

Richard R. Cooch, R.J.

cc: Prothonotary