

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

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GEORGETOWN, DE 19947
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September 17, 2018

Shirley M. Feige
P.O. Box 301
Lewes, DE 19958

***RE: Shirley M. Feige v. Boulevard Auto Sales, Inc., and
Unemployment Insurance Appeal Board
C.A. No. S18A-06-001 ESB***

Dear Ms. Feige:

This is my decision on your appeal of the Unemployment Insurance Appeal Board's denial of your claim for unemployment benefits. The Board denied your claim because it found that you voluntarily quit your job without good cause. You worked as a wholesale clerk scanner earning \$12.75 per hour for Boulevard Auto Sales, Inc., from February 28, 2016, through November 9, 2017. You alleged that you were being harassed by your coworkers. You felt the situation was untenable and the harassment would continue. You also felt that because of this situation you could not do your job properly. On November 9, 2017, you ended your employment with

Boulevard Auto Sales by leaving and not returning. You filed for unemployment benefits on December 31, 2017.

The Appeals Referee held a hearing on March 6, 2018. You testified to the conditions of your working environment at Boulevard Auto Sales. You testified that your boss asked you out on a date three times. You testified that your co-workers verbally harassed you and called you unpleasant names. You testified that your co-workers asked you to leave your job on multiple occasions. You testified that the work environment was affecting your health. You testified that you switched offices in order to avoid the harassment. You testified that you wanted to participate in a holiday gift exchange at work but were intentionally given a person's name that had been harassing you which made you feel uncomfortable. You testified that you brought all of this information to your Human Resources representative on numerous occasions. You testified that the your HR representative informed you she spoke with your boss and he denied your allegations about him asking you out on a date. You testified that you chose to leave your job at Boulevard Auto Sales in order to pursue a job where you felt you could work and be treated with dignity and respect.

Kelly Mangan testified on behalf of Boulevard Auto Sales at the hearing before the Appeals Referee. Ms. Mangan is the human resource representative in charge of investigating employee complaints. Ms. Mangan testified that you were having issues

with the way people were speaking with you around the office. Ms. Mangan testified that she attempted to investigate your claims but you refused to disclose the identity of the people you claim were harassing you. Ms. Mangan testified that she spoke with the employees as a group, but everyone denied your allegations. Ms. Mangan testified on numerous occasions that she attempted to resolve your complaints, but you failed to respond to her inquires.

The Board held a hearing on May 1, 2018. You provided additional testimony concerning your health being affected by your work environment. You again testified that you spoke with Ms. Mangan concerning your work environment, but that everyone denied your claims. Boulevard Auto Sales stood on its testimony from the hearing before the Appeals Referee and did not participate in the Board hearing.

The Appeals Referee and the Board both denied your claim for unemployment benefits, reasoning that you voluntarily quit your job without good cause. The Board found that (1) you failed to show by a preponderance of the evidence that good cause existed for you to leave your employment, and (2) you failed to exhaust your administrative remedies. You then filed an appeal of the Board's decision with this Court. I have concluded the Board's decision is based upon substantial evidence and free from legal error.

STANDARD OF REVIEW

The Supreme Court and this Court repeatedly have emphasized the limited appellate review of the factual findings of an administrative agency. On appeal from a decision of the Board, this Court is limited to a determination of whether there is substantial evidence in the record sufficient to support the Board's findings, and that such findings are free from legal error.¹ Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.² The Board's findings are conclusive and will be affirmed if supported by "competent evidence having probative value."³ The appellate court does not weigh the evidence, determine questions of credibility, or make its own factual findings.⁴ It merely determines if the evidence is legally adequate to support the agency's factual findings.⁵ Absent an error of law, the Board's decision will not be disturbed where

¹ *Unemployment Ins. Appeals Board of the Dept. of Labor v. Duncan*, 337 A.2d 308, 309 (Del. 1975).

² *Oceanport Ind. v. Wilmington Stevedores*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del. Super. 1986), *app. disp.*, 515 A.2d 397 (Del. 1986).

³ *Geegan v. Unemployment Compensation Commission*, 76 A.2d 116, 117 (Del. Super. 1950).

⁴ *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

⁵ 29 Del.C. § 10142(d).

there is substantial evidence to support its conclusions.⁶

DISCUSSION

Delaware law provides that an individual is disqualified from receiving unemployment benefits if she “left work voluntarily without good cause attributable to such work.”⁷ “Good cause” may include such circumstances as a substantial reduction in wages or hours or a substantial deviation in working conditions from the original agreement of hire to the employee’s detriment.⁸ The claimant bears the burden of showing “good cause” for voluntarily terminating employment and the claimant must demonstrate that she exhausted all administrative remedies prior to voluntarily leaving her work.⁹

The Board ruled that you were not entitled to unemployment benefits because you did not have “good cause” to quit your job. The Board found that you stated that your coworkers were disrespectful toward you and would mutter things under their breath. The Board found that you testified that the HR investigation was

⁶ *Dallachiesa v. General Motors Corp.*, 140 A.2d 137 (Del. Super. 1958).

⁷ 19 *Del.C.* § 3314(1).

⁸ See *Hopkins Construction v. UIAB*, 1998 WL 960713, at *3 (Del. Super. Dec. 17, 1998).

⁹ *Longobardi v. Unemployment Insurance Appeals Board*, 287 A.2d 690, 692 (Del. Super. 1971).

inconclusive. The Board noted that you did not allege that the HR investigation was either inadequate or otherwise deficient. The Board also noted that you admitted to not responding to HR's request for additional information on your claims. The Board found that the facts presented to it demonstrated an unpleasant work environment and your unhappiness with that environment. In finding that you did not have good cause to quit your job, the Board also found that you failed to exhaust your administrative remedies. The Board noted that you failed to respond to HR's inquiries into the incident and you failed to identify the people you accused of harassment.

In *Swann v. Cabinetry Unlimited*,¹⁰ the claimant stated that she quit her job for the sole reason that she could no longer tolerate her employer's temper. The Board rejected the claimant's version concerning her employer's behavior. The Court affirmed the Board's holding, stating that "unsatisfactory work relationships do not rise to the level of good cause if there is no 'lessening of basic employment rights or cruel and harsh punishment by the employer.'" ¹¹ The Court in *Christiana Care Health Systems v. Thompson*,¹² echoed the same view when it stated "unhappiness arising out of an unpleasant work environment does not constitute good cause for purposes of

¹⁰ 1993 WL 487892 (Del. Super. Ct. Oct. 15, 1993).

¹¹ *Id.* at *2.

¹² 2010 WL 532451 (Del. Super. Ct. Feb. 8, 2010).

19 Del.C. § 3314(1).”¹³ In *Lamberth v. Brandywine Counseling*,¹⁴ the Court stated “good cause does not exist if a claimant voluntarily quits employment for personal feelings of unhappiness not related to work, and disagreement with co-workers and supervisors is an insufficient reason to justify voluntarily quitting employment.”¹⁵ *Lamberth* also stated that it is settled law that an employee is obligated to “inform an employer of resolvable problems and to make a good faith effort to resolve them before simply leaving.”¹⁶ “The employee must notify her employer of the problem, request a solution, provide sufficient detail as to the nature of the nature of the problem, and allow the employer adequate time to address the problem.”¹⁷

The evidence in the record details your unhappiness with your work environment at Boulevard Auto Sales. Your testimony about work conditions, if true, is not ideal, but it does not rise to cruel and harsh punishment. You reported your working conditions to your HR department. The HR department investigated the matter. The people they spoke with denied your allegations. It is clear that you were unhappy about your work environment, but “unhappiness arising out of an unpleasant

¹³ *Id.* at *2.

¹⁴ 2013 WL 3864504 (Del. Super. Ct. July 23, 2013).

¹⁵ *Id.* at *5.

¹⁶ *Lamberth*, 2013 WL 3864504, at *6.

¹⁷ *Id.*

work environment does not constitute good cause”¹⁸ for leaving your employment. You also had an obligation to describe your problems in sufficient detail to allow for a resolution. You failed to provide your employer with the names of the people you claimed were harassing you. This prevented your employer from performing the necessary investigation into your matter. The testimony in the record also indicates that you failed to respond to the inquiries by your HR department on several occasions. In short, you complained about a problem but refused to provide the details that would have helped your employer resolve your complaints. The Board is the expert on these matters. The Board found that you described an unpleasant work environment and your unhappiness with that environment, but that was not enough for you to voluntarily quit your job since it did not rise to a level of cruel and harsh punishment. The Board also found that you did not exhaust your administrative remedies because you failed to make a good faith effort to provide your employer with the necessary information. It is not this Court’s job to weigh the evidence and reach an independent conclusion, but to determine if the Board’s decision is based upon substantial evidence and free from legal error. After a review of the record, this Court finds that the Board’s decision is based upon substantial evidence and free from legal error.

¹⁸ 2010 WL 532451 at *2.

CONCLUSION

The Unemployment Insurance Appeal Board's decision is **AFFIRMED**.

IT IS SO ORDERED.

Very truly yours,


E. Scott Bradley

cc: Prothonotary's Office
Boulevard Auto Sales, Inc., Attn: Kelly Mangan (P.O. Box 752,
Georgetown, DE 19947)