

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

DAVID REESE,)	
)	
Appellant,)	
)	C.A. No. 00A-10-001 HDR
v.)	
)	
MIKE'S GLASS SERVICE)	
and UNEMPLOYMENT)	
INSURANCE APPEAL BOARD,)	
)	
Appellees.)	

Submitted: March 16, 2001
Decided: June 27, 2001

David Reese, Clayton, Delaware, *pro se*.

**James J. Hanley, Esq., Deputy Attorney General, Department of Justice,
Wilmington, Delaware, for Appellee Unemployment Insurance Appeal Board.**

**Upon Appeal from a Decision of the
Unemployment Insurance Appeal Board**
AFFIRMED

RIDGELY, President Judge

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O R D E R

This 27th day of June, 2001, upon consideration of the parties' briefs and the record below, it appears that:

(1) David Reese ("Claimant") appeals from the decision of the Unemployment Insurance Appeal Board ("Board") which affirmed the decision of the Appeals Referee ("Referee") denying his unemployment benefits in connection with his separation from employment at Mike's Glass Service ("Employer").

(2) On July 5, 2000, the Claimant became separated from his employer and thereafter filed a claim for unemployment compensation benefits. Following a fact finding interview, a Claims Deputy granted the Claimant's application under 19 *Del. C.* § 3315(2) finding that the Claimant was discharged without just cause and was therefore entitled to benefits¹. The Employer filed a timely appeal from this decision to the Referee. On August 28, 2000, upon a hearing, the Referee reversed the Claims Deputy's decision, finding that the Claimant was

¹ 19 *Del. C.* § 3315(2) states that an individual shall be disqualified for unemployment compensation benefits "when an individual was discharged from the individual's work for just cause in connection with the individual's work."

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discharged for just cause in connection with his work. The Claimant then filed a timely appeal to the Board, which affirmed the Referee's decision denying benefits upon a separate hearing. The Claimant now appeals from that decision.

(3) In reviewing the factual decisions of the Board, the Court must determine whether the Board's findings are supported by substantial evidence and free from legal error.² Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.³

(4) The standard of review for this Court considering an action of the Board is whether the Board abused its discretion.⁴ A decision by the Board is an abuse of discretion if it is based on "clearly unreasonable or capricious grounds" or the Board exceeded the "bounds of reason in view of the circumstances" and

² 19 Del. C. § 3323(a); *Unemployment Ins. App. Bd. v. Duncan*, Del. Supr., 337 A.2d 308, 309 (1975).

³ *Breeding v. Contractors-One, Inc.*, Del. Supr., 549 A.2d 1102, 1104 (1988).

⁴ *Funk v. Unemployment Ins. App. Bd.*, Del. Supr., 591 A.2d 222, 225 (1991).

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“ignored recognized rules of law or practice so as to produce injustice.”⁵ Absent such an abuse, the decision of the Board must be upheld.⁶

(5) The Claimant appeals the decision of the Board on two grounds. First, the Claimant asserts that the Board refused to allow his witness to testify. Second, the Claimant alleges that the Board denied him the opportunity to finish his own testimony.

⁵ ***K-Mart, Inc. v. Bowles*, Del. Super., C.A. No. 94A-10-007, Cooch, J. (March 23, 1995) at *2-3.**

⁶ ***Id.***

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(6) The decision of the Board to allow a witness's testimony is discretionary, and therefore, this Court's review is limited.⁷ The record indicates that the Claimant offered the testimony of Ira Bowens, seeking to prove that an unfair and unpleasant atmosphere existed at the workplace for some time prior to the Claimant's discharge.⁸ However, the issue before the Board was the conversation between the Claimant and the co-owners of the business leading to the Claimant's discharge. The Board disallowed this witness's testimony as it was irrelevant to the circumstances of the Claimant's discharge.⁹ The Board did not abuse its discretion by declining to hear this witness's testimony.

⁷ See, e.g., *Connors v. Mountaire Farms of Delmarva*, Del. Super., C.A. No. 95A-05-007, Lee, J. (May 22, 1996).

⁸ *Reese v. Mike's Glass Service*, UIAB App. Docket No. 420479 (Sept. 20, 2000) Transcript at 10.

⁹ *Id.*

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(7) Next the Claimant alleges that the Board did not allow him to finish his testimony. The record indicates that after all other witnesses had testified, the Board allowed the Claimant two further opportunities to speak.¹⁰ The record further indicates that the Claimant did so and did not object when the hearing ended.¹¹ The Claimant's allegation that he was denied the opportunity to testify is not supported by the record.

NOW, THEREFORE, IT IS ORDERED that the decision of the Unemployment Insurance Appeal Board is ***AFFIRMED***.

/s/ Henry duPont Ridgely
President Judge

cmh

oc: Prothonotary

xc: Order distribution

¹⁰ *Id.* at 16-17.

¹¹ *Id.*