

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

WILLIAM C. JONES, SR., : Civil Action No. 00A-08-001
 : :
 Appellant, : :
 : :
 5. : :
 : :
UNEMPLOYMENT INSURANCE : :
APPEALS BOARD, : :
 : :
 Appellee. : :

MEMORANDUM OPINION

Date Submitted: April 9, 2001
Date Decided: June 11, 2001

Appeal from decision of Unemployment Insurance Appeal Board - Affirmed

William C. Jones, Sr., 74 Shawnee Drive, Blackwater Village, Dagsboro, Delaware 19939-9544,
Pro se.

Thomas H. Ellis, Esquire, State of Delaware Department of Justice, 820 North French Street, 6th
Floor, Wilmington, Delaware 19801, Attorney for Appellee.

Bradley, Judge

William C. Jones (“Claimant”) appeals the Unemployment Insurance Appeals Board’s (“Board”) decision to deny his application for further review. The Appeals Referee found that Claimant was self-employed and therefor ineligible for unemployment benefits. For the reasons stated herein, the Court affirms the decisions of the Referee and the Board.

NATURE AND STAGE OF THE PROCEEDINGS

On February 27, 2000, Claimant filed for unemployment benefits. His last date of employment was March 2, 2000.¹ Claimant is admittedly self-employed. On March 11, 2000, he and his wife opened a small business service company, Delmarva Business Services. Claimant testified that he devoted between 30-50 hours a week to this business, and an equal amount of time to conducting a job search via the Internet. While revenue was generated by Delmarva Business Services, as of June 15, 2000, the business was operating at a loss of \$2,741.64.

On May 18, 2000, a Claims Deputy from the Division of Unemployment Insurance issued a Notice of Determination informing Claimant that because he was performing

¹ There appears to be a discrepancy on the “Application for Benefits” as to why Claimant is no longer with his previous employer. Claimant stated he was unemployed due to downsizing, but his former employer, David K. Parker, listed the reason for separation as “For Mr. Jones to pursue his business full-time.” This discrepancy was never addressed in the record, or at the hearing.

services and receiving wages, he was not “unemployed” as the term is defined by 19 Del. C. §3302(17). Claimant’s request for benefits was therefore denied. Claimant sought review of this decision before an Appeals Referee. On June 19, 2000, after a full hearing which included testimony from Claimant, the Appeals Referee affirmed the decision of the Claims Deputy and found that 19 Del. C. §3302(17) excluded Claimant from eligibility for unemployment benefits. The Appeals Referee found and concluded as follows:

This tribunal finds that during the week ending March 11, 2000 the claimant and his wife opened a business, Delmarva Business Services. Both of their names are on the business license. During the tax season, the claimant worked 30-50 hours a week for this business. He billed for those services and some payments came in. They also made purchases and incurred expenses in operating the business. As of June 15, the business is operating at a loss. Also during this time, the claimant has been conducting a national job search and sent out resumes via the Internet.

The Board declined to review the issue further. It found that Claimant’s appeal was without merit because the Referee’s factual determinations were supported by substantial evidence, and the issue was controlled by settled Delaware law.

The Court now must decide whether the Appeals Referee and the Board correctly determined that Claimant’s self-employment disqualifies him from the receipt of unemployment benefits.

DISCUSSION

This Court has repeatedly emphasized the limited appellate review of the factual findings of an administrative agency. The function of the reviewing court is to determine

whether substantial evidence supports the agency's decisions. Johnson v. Chrysler Corporation, Del. Supr., 213 A.2d 64, 6-7 (1965); General Motors v. Freeman, Del. Supr., 164 A.2d 686, 688 (1960). Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Oceanport Ind. v. Wilmington Stevedores, Del. Supr., 636 A.2d 892, 899 (1994); Battista v. Chrysler Corp., Del. Super., 517 A.2d 295, 297 (1986), app. dismiss., Del. Supr., 515 A.2d 397 (1986). The appellate court does not weigh the evidence, determine questions of credibility, or make its own factual findings. Johnson v. Chrysler Corporation, 213 A.2d at 66. It merely determines if the evidence is legally adequate to support the agency's factual findings. 19 Del. C. §3323(a).

I. Is Claimant eligible for unemployment benefits when he is admittedly self-employed?

19 Del. C. §3302(17) provides in relevant part as follows:

“Unemployment” exists and an individual is “unemployed” in any week during which the individual performs no services and with respect to which no wages are payable to the individual, or in any week of less than full-time work if the wages payable to the individual with respect to such week are less than the individual's weekly benefit amount plus whichever is the greater of \$10 or 50% of the individual's weekly benefit amount....

Claimant argues that he is entitled to unemployment benefits because his company is operating at a loss, and therefore he has not received wages. As stated in 19 Del. C. §3302(19), “wages” are defined as, “all remuneration for personal services, including commissions, bonuses, dismissal payments, holiday pay, back pay awards and the cash

value of all remuneration in any medium other than cash...” Claimant admitted that he devoted himself to his business full-time, and that he received payments for his endeavors. The purpose of unemployment compensation is to prevent the spread of unemployment, and benefit persons unemployed through no fault of their own, by encouraging employers to provide more stable employment. 19 Del. C. §3301.

Unemployment compensation was not intended to subsidize the early stages of a new business. O’Brien v. Unemployment Insurance Appeals Board., Del. Super., C.A. No. 92A-11-005, Gebelein, J. at 8 (October 20, 1993) (Mem. Op.) (“O’Brien”).

The facts of O’Brien differ slightly from those in the matter sub judice. In addition to operating Delmarva Business Services, Claimant actively sought work. O’Brien did not allege that he continued to seek other employment. Despite this factual difference, this Court agrees with the O’Brien Court that “the legislative intent behind Delaware’s unemployment compensation laws [is] in accord with jurisdictions which hold that a self-employed individual does not qualify for unemployment insurance benefits.” Id. at 8.

The Court finds that, pursuant to the clear language of 19 Del. C. §3302(17), Claimant does not fit the definition of an unemployed person. He was working full-time at Delmarva Business Services, and he received payments for rendering those services. In Weeraratne v. Unemployment Insurance Appeal Board, Del. Super., C.A. No. 95A-05-011-NAB, Barron, J. (September 6, 1995) (ORDER), aff’d, Del. Supr., No. 392, 1995, Hartnett, J. (March 19, 1996), the Court found that the denial of unemployment benefits to self-employed individuals was “an established rule, even though public policy favors

construing unemployment laws in favor of the unemployed claimant, since the General Assembly has not authorized unemployment benefits for the purpose of supporting the early stages of a new business.”

Id. at 5-6.

The Court affirms the decision below. Claimant is self-employed and therefore is not entitled to receive unemployment compensation benefits.

CONCLUSION

The Court finds that Claimant’s self-employment makes him ineligible to receive unemployment benefits. 19 Del. C. §3302(17) provides that unemployment exists in any week during which the individual performs no services and receives no wages. Claimant admitted he worked 30-50 hours per week at his business and received payments for services performed. As a result, this Court finds that he is disqualified from receiving unemployment benefits.