IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

WAYNE A. WHEATLEY,	)	
	)	C.A. No. 05A-02-001 JTV
Appellant,	)	
	)	
v.	)	
	)	
I.G. BURTON, CO, INC., and	)	
UNEMPLOYMENT INSURANCE	)	
APPEAL BOARD,	)	
	)	
Appellee.	)	

Submitted: February 1, 2005
Decided: May 31, 2005

Mr. Wayne A. Wheatley, Easton, Maryland. *Pro Se.*

Nicholas H. Rodriguez, Esq., Schmittinger & Rodriguez, Dover, Delaware. Attorney for Appellee I. G. Burton.

Upon Consideration of Appellee's Appeal From
Decision of Unemployment Insurance Appeal Board
AFFIRMED

VAUGHN, President Judge

OPINION

Wayne A. Wheatley ("the claimant") appeals a decision of the Unemployment Insurance Appeal Board ("the Board") denying his application for unemployment benefits. The Board found that the claimant was disqualified from receiving benefits because he did not meet his burden of showing good cause for voluntarily terminating his employment with I.G. Burton Co., Inc. ("the employer").

FACTS

The claimant disputes many of the factual findings made by the Board and the Appeals Referee and presents differing facts in his opening brief. Because the Board and the Referee were in a better position to weigh the evidence and evaluate testimony, the Court will not substitute its judgment as to their factual determinations. Those findings of fact are as follows:

The claimant began working for I.G. Burton as a sales representative in November of 1996. He lived in Easton, Maryland and traveled 75 miles to work at I.G. Burton in Milford. The commute was difficult for the claimant and took a toll on him emotionally. In June of 2003, the claimant and the employer agreed that the claimant could begin working from home. The claimant was informed by management that the employer required a certain number of sales representatives be employed for the sales floor. They could not guarantee a spot would be available for the claimant should he desire to return to the sales floor. After the claimant tried working from home, he asked management to allow him to return to the sales floor. He was never given the opportunity to return because the employer did not have any available positions on the sales floor.

The claimant's work-at-home arrangement was not advantageous to either party. The claimant's sales steadily declined and his income dropped by 67%. The claimant was not participating in sales training and meetings, and although he argued he had not been invited to participate, the Board found that there were training opportunities the claimant failed to take advantage of. The claimant felt he had little or no support from his employer. The Board found, however, that the employer made efforts to work with the claimant such as allowing him to sell both BMW's and Mercedes, a practice not typically permitted.

The relationship between the claimant and management steadily deteriorated. In November of 2004, Pete Renzi, Operations Manger for I.G. Burton, sent a letter to the claimant detailing the employer's concern with the claimant's drop in sales and setting a minimum sales requirement of six cars a month. The letter stated that if the claimant did not meet this quota he would be terminated. The letter also recommended that the claimant attend sales training held weekly at I.G. Burton and also that he attend monthly company meetings. The Board found that if the claimant had been attending these weekly and monthly meetings, he may have been able to keep an open line of communication with management and perhaps resolve some of their problems.

In early December of 2004, the claimant received another letter from Pete Renzi informing the claimant of a mandatory company wide sales meeting to be held on December 5th. The letter also stated that there would be an additional meeting at the dealership between the claimant, human resources, and other executive management. Employees of I.G. Burton testified, and the Board found, that this

meeting was arranged in an attempt to resolve issues between the parties and that human resources would not have been included if they intended to fire the claimant. The claimant felt otherwise. He thought he would be fired at this meeting and publicly humiliated. Rather than attend the meeting, the claimant chose to submit his resignation on December 3, 2004.

The claimant filed for unemployment benefits on February 1, 2004. The Claims Deputy denied the claim finding that the claimant voluntarily resigned for personal reasons, failed to seek administrative relief, and failed to show good cause for leaving his employment. The claimant appealed this decision and a hearing was held before the Appeals Referee on February 25, 2004. The Referee affirmed the decision of the Claims Deputy and denied benefits. The claimant appealed and an evidentiary hearing was held before the Board.

The primary issues before the Board were whether or not the claimant voluntarily resigned and whether he failed to seek administrative relief. The Board heard testimony from the claimant and the employer and reviewed the evidence and the decision of the Appeals Referee. The Board found that by not attending the December 5th meeting, the claimant "abandoned his last opportunity to resolve his problem about his working relationship with his employer and fulfill a legal requirement for any showing of good cause to voluntarily quit his employment."[1] The claimant was disqualified from receiving unemployment benefits because he "left his

[1] *Wheatley v. I.G. Burton*, UIAB Appeal Docket No. 728689 (Apr. 28, 2004), at 4, *aff'g* Decision of Appeals Referee (Mar. 29, 2004).

work voluntarily without good cause attributable to such work."[2]

CONTENTIONS OF THE PARTIES

The claimant argues that the agreement to work from home was not mutual, but rather a result of coercion by the employer and an attempt to replace him with a younger sales representative. The claimant further insists that once he began working from home the employer began pulling support and he was effectually unable to sell cars. Among other things, he argues that advertising in his area was designed to bypass him and send customers directly to the showroom, his voice-mail was discontinued, he was not invited to attend any offsite training, and his customers were told he no longer worked there. He argues that the minimum requirement of six cars a month was excessive and not required while he worked on the sales floor. He also contends that any attempt to resolve his concerns through Human Resources would have been futile because he had problems with the department in the past.

The employer argues that the Board's decision is supported by substantial evidence and free from legal error. It argues that the claimant voluntarily agreed to work from home and later voluntarily resigned from his position, thus disqualifying him from receiving benefits.

STANDARD OF REVIEW

The limited function of this Court in reviewing an appeal from the Unemployment Insurance Appeal Board is to determine whether the Board's decision

[2] *Id.* at 5.

is supported by substantial evidence.[3] Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[4] The appellate court does not weigh the evidence, determine questions of credibility, or make its own factual findings.[5] In other words, the Board, not the court, determines the credibility of the witnesses, the weight to be given their testimony, and the inferences to be drawn therefrom.[6] The court merely determines if the evidence is legally adequate to support the agency's factual findings.[7] Therefore, if there is substantial evidence for the Board's decision, the decision will be affirmed.

DISCUSSION

Title 19 *Del. C.* § 3315 provides the standard for determining eligibility for unemployment benefits. "An individual shall be disqualified for benefits: (1) For the week in which the individual left work voluntarily without good cause attributable to such work . . .." The claimant bears the burden of showing good cause.[8] Good cause is defined as "such cause as would justify one in voluntarily leaving the ranks

---

[3] *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66-67 (Del. 1965); *General Motors v. Freeman*, 164 A.2d 686, 688 (Del. 1960).

[4] *Oceanport Industries, Inc. v. Wilmington Stevedores, Inc.*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del. Super. Ct. 1986), *appeal dismissed*, 515 A.2d 397 (Del. 1986).

[5] *Johnson*, 213 A.2d at 66.

[6] *Behr v. Unemployment Insurance Appeal Board*, 1995 WL 109026 (Del. Super.).

[7] 29 *Del. C.* § 10142(d).

[8] *Longobardi v. Unemployment Ins. Appeal Bd.*, 287 A.2d 690 (Del. Super. Ct. 1971).

of the employed and joining the ranks of the unemployed."[9] Good cause "contemplates such things as a substantial reduction in wages or hours or a substantial deviation in the working conditions from the original agreement of hire."[10] In a voluntary resignation case, the resignation "must be for reasons connected with the employment, not for personal reasons."[11] And, as the Board correctly stated, "before the employee may have a good cause to quit, an employee does have an obligation to inform an employer of resolvable problems and to make a good faith effort to resolve them before leaving."[12]

The claimant has not met his burden of showing good cause for voluntarily resigning from his position. There were undoubtedly substantial changes in the claimant's employment position but the changes were the result of a mutual agreement. The claimant argues otherwise but his testimony during the hearing was that he was excited about the idea and, after thinking it over, he readily agreed to it. The work-at-home arrangement was clearly not beneficial to either the claimant or his employer and ultimately created tension between them. The claimant had a duty to make a good faith effort to try to resolve the issues. The Court agrees with the Board that "[b]y viewing the December 5th meeting as a threat rather than an opportunity,

---

[9] *O'Neal's Bus Serv., Inc. v. Employment Sec. Comm'n,* 269 A.2d 247 (Del. Super. Ct. 1970).

[10] *Smith v. The Placers, Inc.*, 1993 Del. Super. LEXIS 483, *at 7.

[11] *Williams v. Sheraton Suites*, 2001 Del. Super. LEXIS 347, *at 2.

[12] *Wheatley v. I.G. Burton*, UIAB Appeal Docket No. 728689 (Apr. 28, 2004), at 3 (citing *Sandefur v. Unemployment Insurance Appeals Board*, 1993 WL 389217 (Del. Super.).

the claimant abandoned his last opportunity to resolve his problems . . . with his employer and fulfill a legal requirement for any showing of good cause to voluntarily quit his employment."[13]

The claimant's brief essentially rehashes factual arguments and reargues issues that were presented before the Board and the Appeal Referee. The Court will not substitute its judgment on factual determinations made by the Board as the Board was in a better position to evaluate the credibility of witnesses and weigh the evidence. Based upon a review of the record, the Court finds the Board stated and applied the appropriate legal standard below and its decision was based upon substantial evidence. The ruling of the Board is **affirmed**.

IT IS SO ORDERED.

/s/ James T. Vaughn, Jr.
President Judge Vaughn

oc: Prothonotary
cc: Order Distribution
File

[13] *Id.* at 4.