

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

SHONDA GIDDENS, :
 :
 : C.A. No. 05A-11-004 WLW
 Claimant-below, :
 Appellant, :
 :
 :
 v. :
 :
 :
 DELAWARE HOSPITAL FOR THE :
 CHRONICALLY ILL, and :
 UNEMPLOYMENT INSURANCE :
 APPEALS BOARD, :
 :
 Employer-below, :
 Appellee. :

Submitted: March 20, 2006

Decided: June 30, 2006

ORDER

Upon an Appeal of the Decision of the Unemployment
Insurance Appeals Board. Denied.

Shonda Giddens, *pro se*.

Gregory E. Smith, Esquire, Department of Justice, Wilmington, Delaware; attorneys for
the State of Delaware.

WITHAM, R.J.

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Upon consideration of the parties' briefs and the record below, it appears to the Court:

Employee, Shonda Giddens ("Giddens"), filed a *pro se* appeal with this Court from the decision of the Unemployment Insurance Appeals Board ("Board") dated November 13, 2005 regarding her unemployment claim against Delaware Hospital for the Chronically Ill ("DHCI"). In that decision, the Board affirmed the Appeals Referee's ("Referee") prior decision, denied benefits to Giddens and determined that she left her work voluntarily without good cause. Giddens argues that the State submitted inaccurate and misleading documentation to the Board, that she did not receive the medical papers in a sufficient amount of time prior to the hearing, that Dr. Kamali provided "contradictory, false and inconsistent statement[s] and documentation," that DHCI gave false statements and that Sue Mitchell ("Ms. Mitchell") gave her a letter stating that she would be terminated if she failed to report to full duty. The State responds by asserting that the Board's decision was supported by substantial evidence and should, therefore, be permitted to stand.

The salient facts are as follows: In July of 2004, Giddens sustained a work-related injury to her shoulder. As a result, she was temporarily limited to light duty assignments. On April 21, 2005, Dr. Kamali released Giddens from her restrictions. However, Giddens did not report to work from April 11 through May 4, 2005 and on fourteen of those days, Giddens did not advise anyone that she would be absent. On May 4, 2005, DHCI sent Giddens a letter informing her that she was required to meet with the director of nursing on May 11, 2005 and return to work without limitations. Giddens did not attend the meeting, but did report to work her shift later that day. However, Giddens refused to

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perform her full-duty assignment and left DHCI. On June 2, 2005, Giddens requested a pre-termination hearing, but did not appear on the scheduled date of June 22, 2005.

For the reasons set forth below, Giddens' appeal from the Board's decision is *denied*.

Standard of Review

The review of an Industrial Accident Board's decision is limited to an examination of the record for errors of law and a determination of whether substantial evidence exists to support the Board's finding of fact and conclusions of law.¹ Substantial evidence equates to "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."² This Court will not weigh the evidence, determine questions of credibility, or make its own factual findings.³ Errors of law are reviewed de novo. Absent error of law, the standard of review for a Board's decision is abuse of discretion.⁴ The Board has abused its discretion only when its decision has "exceeded the bounds of reason in view of the circumstances."⁵ Additionally, "this Court will give deference to the expertise of administrative agencies and must affirm the decision of any agency even

¹*Histed v. E. I. Dupont de Nemours & Co.*, 621 A.2d 340, 342 (Del. 1993); *Willis v. Plastic Materials*, 2003 Del. Super. LEXIS 9; *Robinson v. Metal Masters, Inc.*, 2000 Del. Super. LEXIS 264.

²*Olney v. Cooch*, 425 A.2d 610, 614 (Del. 1981) (quoting *Consolo v. Federal Mar. Comm'n*, 383 U.S. 607, 620 (1966)).

³*Collins v. Giant Food, Inc.*, 1999 Del. Super. LEXIS 590 (quoting *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66-67 (Del. 1965)).

⁴*Digiacommo v. Bd. of Pub. Educ.*, 507 A.2d 542, 546 (Del. 1986).

⁵*Willis*, 2003 Del. Super. LEXIS at *2-3.

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if the Court might have, in the first instance, reached an opposite conclusion.”⁶ “Only where no satisfactory proof exists to support the factual finding of the Board may the Superior Court overturn it.”⁷

Discussion

All of Giddens’ contentions appear to attack the testimony before the Board and the evidentiary findings of the Board; thus, the Board’s decision will be examined to determine if substantial evidence exists to support its findings of fact and conclusions of law. Giddens’ primary contentions are that Dr. Rowe instructed her to remain on light duty and she was told not to report to work until her alternative duty was approved. The State notes that the Board determined that she quit voluntarily without good cause because “there is simply no medical evidence in the record that indicates that the claimant was medically unfit to report for duty. Further, the record shows that she did not attempt to work through her issues of when to return to work with her employer. She chose instead to stop coming to work.”⁸

There is substantial evidence to support this conclusion by the Board. First, it should be mentioned that the claimant bears the burden of demonstrating “good cause” for voluntarily terminating employment.⁹ Recognizing that burden, the Board observed that although Giddens produced documentation from Dr. Rowe restricting her to light

⁶*Collins*, 1999 Del. Super. LEXIS at *9.

⁷*Jules-Hall v. Cash Systems, Inc.*,

⁸*Giddens v. Delaware Hosp. for the Chronically Ill*, UIAB Appeal Docket No. 435306 (September 28, 2005), *aff’g* Decision of Appeals Referee (August 3, 2005).

⁹*See Longobardi v. Unemployment Ins. Appeal Bd.*, 287 A.2d 690 (Del. Super. 1971).

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duty, there was no medical documentation on the record that indicated the nature or extent of Giddens' condition. Moreover, there was testimony by Lennie Warren, DCHI's representative, that Giddens was released for full duty by Dr. Kamali on March 30, 2005; that Giddens worked light duty from February 25, 2005 per the instructions of Ms. Mitchell; that light duty is limited to six months and after that time, Giddens was a "no call/no show;" that Giddens did not report for duty or request leave without pay. Additionally, the Referee determined that Giddens "quit voluntarily when she stopped attending work, failed to demonstrate that her failure to attend to her job was due to a medical condition, and quit for personal reasons." Based on all the evidence before it, the Board concluded that Giddens did not meet her burden of persuasion and, consequently, agreed with the decision of the Referee.

In the case *sub judice*, there is ample evidence to find that the Board's decision is supported by substantial evidence. Therefore, the Board's decision is proper.

Based on the foregoing, Giddens' appeal from the decision of the Board is *denied*.

IT IS SO ORDERED.

/s/ William L. Witham, Jr.
R.J.

WLW/dmh
oc: Prothonotary
xc: Order Distribution