

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IVAN EDMONDS,	§
	§ No. 387, 2012
Employee/Appellant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
KELLY SERVICES and	§ C.A. No. N12A-02-001
UNEMPLOYMENT INSURANCE	§
APPEAL BOARD,	§
	§
Appellees Below-	§
Appellees.	§

Submitted: August 3, 2012
Decided: September 12, 2012

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 12th day of September 2012, upon consideration of the opening brief and the record below,¹ it appears to the Court that:

(1) The employee-appellant, Ivan Edmonds, filed an appeal from the Superior Court’s July 2, 2012 order affirming the decision of the Unemployment Insurance Appeal Board (the “UIAB” or the “Board”), which affirmed the decision of the Appeals Referee denying Edmonds

¹ Appellee Kelly Services did not file an answering brief. Appellee Unemployment Insurance Appeal Board informed the Court on July 17, 2012 that it would not be filing an answering brief. On July 23, 2012, the Court notified the parties that this appeal would be decided on the basis of the appellant’s opening brief and the record below.

unemployment benefits. We find no merit to the appeal. Accordingly, we affirm.

(2) The record before us reflects that Edmonds worked as a temporary employee at Wilmington Trust Company (the “Bank”) through Kelly Services. From September 2010 through the beginning of June 2011, Edmonds worked in the Bank’s Accounts Payable Department. The Bank terminated Edmonds from his employment on June 6, 2011 when it was discovered that he did not work on May 23rd, 24th or 27th of 2011, but submitted time cards for those days and received payment for those days.

(3) Edmonds filed a claim for unemployment benefits with the Delaware Department of Labor. On June 15, 2011, the Claims Deputy found that Edmonds had been discharged for cause and denied him unemployment benefits. Edmonds then filed an appeal with the Appeals Referee. Following two hearings in July and November 2011, the Referee agreed that Edmonds had been discharged for just cause and affirmed the decision of the Claims Deputy.²

(4) Edmonds then appealed to the UIAB. The hearing before the Board was held on January 11, 2012. Edmonds’ position before the Board

² After the Referee’s decision was issued on July 20, 2011, the UIAB remanded the case to the Referee for another hearing after accepting the employer’s excuse for failing to appear at the original hearing before the Referee.

was that his former supervisor at the Bank was aware of his actions and told him that he would be paid for days he did not work. The Board disagreed, finding that, as a temporary employee, Edmonds was not entitled to either paid vacation days or paid sick days. Moreover, the Board found that Edmonds' conduct amounted to "theft of time," which was directly against the Bank's interest and directly at odds with the standard of conduct applicable to an employee such as Edmonds. As a result, the Board reasoned, Edmonds was terminated for just cause pursuant to Del. Code Ann. tit. 19, §3314(2) and, therefore, was not entitled to unemployment benefits. The Superior Court affirmed the decision of the Board, resulting in the instant appeal.

(5) In his appeal, Edmonds claims that he should not have been denied unemployment benefits because his former supervisor had always approved his timesheet, including payment for the dates he did not work.

(6) The standard of review applicable to the Superior Court on appeal from a decision of the UIAB is whether there is substantial evidence in the record to support the Board's findings and whether such findings are free from legal error.³ Substantial evidence means such relevant evidence as

³ *UIAB v. Duncan*, 337 A.2d 308, 309 (Del. 1975).

a reasonable mind might accept as adequate to support a conclusion.⁴ The Superior Court does not independently weigh the evidence, determine questions of credibility or make its own factual findings.⁵ The standard of review applicable to this Court is identical to the standard of review applicable to the Superior Court.⁶

(7) In a discharge case, the employer has the burden of proving by a preponderance of the evidence that a claimant was terminated for “just cause.”⁷ “Just cause” is defined as a “wilful or wanton act or pattern of conduct in violation of the employer’s interest, the employee’s duties, or the employee’s expected standard of conduct.”⁸

(8) We have reviewed the entire record in this case, including the transcripts of the hearings before the Appeals Referee and the UIAB. We conclude that there was substantial evidence in the record to support the Board’s finding that Edmonds engaged in a pattern of conduct in violation of the Bank’s interest as well as his expected standard of conduct as an employee of the Bank. As such, we conclude that the Board correctly determined that the Bank met its burden of establishing that Edmonds was terminated for just cause.

⁴ *Oceanport Ind., Inc. v. Wilmington Stevedores, Inc.*, 636 A.2d 892, 899 (Del. 1994).

⁵ *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

⁶ *Id.*

⁷ *Avon Products, Inc. v. Wilson*, 513 A.2d 1315, 1317 (Del. 1986).

⁸ *Id.*

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice