

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

Christiana Care Health :
Systems., :
 :
Appellant, :
 : C. A. No. 08A-08-001 (CHT)
v. :
 :
Linda L. Thompson and :
Unemployment Insurance :
Appeals Board, :
 :
Appellees. :

OPINION and ORDER

**Upon Appeal From a Decision of the
Unemployment Insurance Appeals Board**

Submitted: September 23, 2009
Decided: February 8, 2010

David H. Williams, Esquire, James H. McMackin, Esquire
and Allyson M. Britton, Esquire, MORRIS JAMES LLP. 500
Delaware Avenue, Wilmington, DE 19899; Attorneys for
Appellant.

Jeffrey K. Martin, Esquire, MARTIN & ASSOCIATES, P.A.,
1508 Pennsylvania Avenue, Wilmington, DE 19806; Attorney
for Appellee.

TOLIVER, JUDGE

Before the Court is an appeal by the Appellant, Christiana Care Health System from a decision of the Unemployment Insurance Appeal Board decided on July 16, 2008, in which the Board granted the Appellee, Linda L. Thompson, unemployment benefits in connection with her resignation from her employment with Christiana Care. The Appellant requests this Court find that the record did not contain substantial evidence upon which to conclude Ms. Thompson was entitled to unemployment compensation benefits and/or that the Board erred as a matter of law in reaching that conclusion. That which follows is the Court's resolution of the issues so presented.

**STATEMENT OF FACTS AND
NATURE OF THE PROCEEDINGS**

Ms. Thompson was employed by Christiana Care as an administrative assistant from September 2002 through February 8, 2008. She was employed in that capacity at the Howard Wellness Center located in Wilmington, Delaware. It appears that Ms. Thompson applied for

twelve jobs¹ within Christiana Care after her initial hire and was denied each time.² She also claims that she had several disagreements that took place over the course of her employment with her supervisor, Leighanne Hollans. According to Ms. Thompson, Ms. Hollans told her that Ms. Thompson was not a team player and that Ms. Hollans was abandoning her.

On January 29, 2008, Ms. Thompson met with Kathy Cannatelli, the manager of the Howard Wellness Center. During their discussion, Ms. Thompson told Ms. Cannatelli that she was unhappy at her current position and that she wanted to be transferred. She went on to say that if a transfer was not possible she would resign. In addition to describing the problems she was having with Ms. Hollans, Ms. Thompson told Ms. Cannatelli that Ms. Hollans was "unpredictable". In response, Ms. Cannatelli stated that a transfer was not possible at that time.

¹ Christiana Care contended that Ms. Thompson applied for twelve jobs within the company. Ms. Thompson does not dispute that figure. For whatever reason, the Board listed the number of jobs to be approximately thirty-eight. See The Board's decision at A25.

² It also appears that Ms. Thompson never sought an explanation for the rejections from the Human Relations Department of Christiana Care.

That same day, following her conversation with Ms. Thompson, Ms. Cannatelli contacted Michelle Eklund. Ms. Eklund managed employee relations for Christiana Care's Wellness Centers, including the Howard Wellness Center. Ms. Eklund denied any knowledge of any complaints by Ms. Thompson regarding her employment, medical or otherwise, with Christiana Care before that conversation. In any event, sometime after Ms. Cannatelli and Ms. Eklund spoke, they began the process of reviewing Ms. Thompson's complaints. However, Ms. Thompson submitted her letter of resignation on February 1, 2008 before that process could be completed.

On or about March 2, 2008, Ms. Thompson filed an application for unemployment benefits. On March 18, 2008, a Claims Deputy determined that Ms. Thompson voluntarily quit without good cause; therefore, she was disqualified from receiving unemployment benefits under 19 *Del. C.* § 3314(1).³ After receiving the Claims

³ This section of the Delaware Code states that an individual shall be disqualified from receiving benefits if the individual voluntarily leaves without good cause that is attributable to their work for the week in which he or she left work.

Deputy's decision, Ms. Thompson on or about March 24, 2008, appealed that decision to an Appeals Referee. A hearing was held on May 1, 2008. At the hearing, Ms. Thompson alleged that she voluntarily left her employment for good cause. On May 12, 2008, the Appeals Referee issued its findings and affirmed the decision of the Claims Deputy.

On May 13, 2008, Ms. Thompson appealed the decision of the Appeals Referee to the Board. A hearing was held by the Board on June 16, 2008. Ms. Thompson testified in support of her claim while Ms. Cannatelli and Eklund appeared on behalf of Christiana Care.

On July 16, 2008, the Board ruled Ms. Thompson left her job with the Howard Wellness Center for good cause attributable to her work. She was not, as a result, disqualified from receiving unemployment benefits. Christiana Care appealed that decision to this Court on August 1, 2008.

DISCUSSION

Standard of Review

On appeal from the Board, this Court's appellate review is limited to a determination of whether there is substantial evidence on the record sufficient to support the Board's findings, and whether such findings are free from legal error.⁴ Substantial evidence means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."⁵ It is more than a scintilla but less than a preponderance of evidence. However, it is within the exclusive purview of the Board to judge the credibility of witnesses and to resolve conflicts in testimony.⁶

In reviewing the record for substantial evidence, the Court will consider the record in the light most

⁴ *Unemployment Ins. Appeal Bd. v. Duncan*, 337 A.2d 308 (Del. 1975).

⁵ *Oceanport Indus. Inc. v. Wilm. Stevedores*, 636 A.2d 892, 899 (Del. Super. 1994).

⁶ *Coleman v. Dep't of Labor*, 288 A.2d 285, 287 (Del. Super. 1972).

favorable to the party prevailing below.⁷ If there is substantial supporting evidence and no mistake in law, the Board's decision will be affirmed.⁸ Questions of conflict in testimony and witness credibility are resolved by the Board, and not by the Court.⁹

The Board's Decision

In the case at hand, the Board was confronted with different accounts of the circumstances surrounding Ms. Thompson's resignation. After reviewing the conflicting testimony, the Board decided that Ms. Thompson resigned from her position with the Howard Wellness Center for good cause. In making their ruling, the Board considered not only the testimony before them, but also the testimony that was presented to the Appeals Referee.

⁷ *General Motors v. Guy*, C.A. No. 90A-JL-5 (Del. Super. Aug. 16, 1991).

⁸ *Delgado v. Unemployment Ins. Appeal Bd.*, 292 A.2d 585 (Del. Super. 1972).

⁹ *Coleman*, 288 A.2d at 287.

Following a careful examination of the Board's decision in light of the record, the Court must conclude that the decision cannot be allowed to stand for several reasons.

First, according to the Board, Ms. Thompson failed to establish that she was the victim of a hostile work environment. To be specific, the Board stated that Ms. Thompson was not the focus of hostility, but she did work around or among workers who did not get along. As the Board pointed out, a number of the employees at the Howard Wellness Center were unhappy and there was a constant turnover at the Howard Wellness Center. However, work relationships that may be "unsatisfactory" do not rise to the level of good cause if there is no lessening of basic employment rights.¹⁰ Stated differently, unhappiness arising out of an unpleasant work environment does not constitute good cause for purposes of 19 Del. C. § 3314(1).¹¹

¹⁰ See *Swann v. Cabinetry Unlimited*, C.A. No. 93A-02-003 (Del. Super. Oct. 15, 1993) See also *Ament v. Rosenbluth Int'l*, 2000 WL 1610770 (Del. Super. Aug. 31, 2000).

¹¹ *Ament*, 2000 WL 1610770 (Del. Super. Aug. 31, 2000).

Second, this Court previously has stated that a claimant must exhaust the administrative remedies made available to him or her prior to receiving unemployment compensation.¹² An employee must make a good faith attempt to resolve an issue with the employer prior to terminating their employment.¹³ It was Ms. Thompson's position that she exhausted the administrative remedies made available to her prior to resigning. Christiana Care took the opposite view, i.e., Ms. Thompson did not report her concerns to the appropriate individuals.¹⁴ The Court agrees with Christiana Care that Ms. Thompson failed to do so and Ms. Thompson did not, as a consequence, have just cause to terminate her employment.

Ms. Thompson stated that she spoke with her manager, Ms. Cannatelli, on January 29, 2008, a Tuesday. She submitted her resignation letter three days later on

¹² *Abbasi v. Oscar A. Fuller Co.*, 2008 WL 803055 (Del. Super. March 26, 2008).

¹³ *MRPC Financial Management v. Carter*, 2003 WL 21517977, at *4 (Del. Super. June 20, 2003).

¹⁴ The Appellant, did acknowledge that Ms. Thompson contacted a member of employee relations regarding her work environment concerns; however, that person was a employment recruiter and had no ability to actively seek out a transfer for Ms. Thompson.

February 1, 2008, a Friday. It also appears that Ms. Thompson did not contact anyone in Christiana Care's Employee Relations Department regarding her concerns prior to January 29, 2008.

Nor was there any evidence that the three days between the time Ms. Thompson gave the ultimatum and her resignation, would be sufficient to address Ms. Thompson's concerns. The record is also devoid of any indication that Ms. Thompson was qualified for any of the positions that she sought or why she was not granted what she sought. It is equally absent of any evidence put before the Board that established that Ms. Thompson suffered some detriment or loss because she was not able to secure another position within Christiana Care Wellness Center.

Third, to the extent that Ms. Thompson claimed that her work affected her health and justified her resignation, the record is again silent, as the Board noted,¹⁵ beyond her unsupported testimony. She claims

¹⁵ See the Board's decision at A98.

that she established the nexus in question by virtue of an absence obtained pursuant to the Family Medical Leave Act ("FMLA").¹⁶ Notwithstanding that assertion, no verifiable evidence in that regard was put before the Board. Ms. Thompson's failure to show evidence of the medical problems she claimed and how those medical problems were attributable to her employment further undermines the validity of the Board's decision.¹⁷

In sum, the Court cannot sustain the result reached by the Board. That decision was not supported by substantial evidence. The Board must also be deemed to have erred as a matter of law by concluding that Ms. Thompson had just cause to terminate her employment with Christiana Care.

¹⁶ According to the factual findings of the Board, no medical evidence was ever presented to support Ms. Thompson's claim that her work environment affected her health. See Board's decision at A98.

¹⁷ See *Dahling v. Sure Equip.*, 1995 WL 339181, at *1 (Del. Super. May 10, 1995).

CONCLUSION

Based on the foregoing, the Court must conclude that the decision of the Unemployment Insurance Appeals Board that Ms. Thompson terminated her employment for just cause was not supported by sufficient evidence. In addition, the Board erred as a matter of law in concluding that Ms. Thompson was entitled to unemployment compensation benefits pursuant to 19 *Del. C* § 3314(1). Accordingly, the decision rendered below must be, and hereby is **reversed**.

IT IS SO ORDERED.

TOLIVER, JUDGE