

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

ROSE FORNEY,)	
)	
Plaintiff,)	
)	
v.)	C. A. 04A-01-010-FSS
)	
NEW CASTLE COUNTY and)	
UNEMPLOYMENT INSURANCE)	
APPEAL BOARD,)	
)	
Defendant.)	

Submitted: December 20, 2004
Decided: January 20, 2005

ORDER

Upon Appeal from the Unemployment Insurance Appeal Board - - ***AFFIRMED***

From April 15 until June 20, 2003, Appellant, Rose Forney, was employed by New Castle County as a crossing guard. During those nine weeks, Forney often missed work because her car was broken and she had no transportation. Whenever she missed work, Forney was careful to call her supervisor. Those facts are undisputed.

There is a question as to whether Forney abandoned her job and, in effect, resigned, or if she was terminated. In either event, the Unemployment

Insurance Appeals Board correctly found that Forney lost her job because her attendance was unsatisfactory.

The court has reviewed the record carefully, especially the transcript of the October 7, 2003 appeals referee hearing. While Forney eventually failed to appear at the Board's December 10, 2003 hearing, she testified earlier before the referee and told her side of the story. It is apparent that whether Forney, in effect, resigned or whether she was fired, she is not entitled to Unemployment Insurance Benefits. Forney appears to be a nice person who meant to do the job. Her unexcused absences from work were simply because she did not have a working automobile. Nevertheless, as a matter of law, unsatisfactory attendance is grounds for termination and denial of benefits.¹ Forney's excessive absences were her fault, not the County's.

The court can find no mistake of law or any incorrect fact-finding that makes a difference. Accordingly, there is no basis for the court, on appeal, to disturb the Board's December 10, 2003 decision and it is ***AFFIRMED***.

IT IS SO ORDERED.

Judge

¹ *Mason v. Best Drywall*, Del. Super., C.A. No. 98A-07-005-RSG, Gebelein, J. (April 1, 1999).

oc: Prothonotary (Civil Appeals Division)
pc: Eric L. Episcopo, Esquire
Mary Page Bailey, Esquire - U. I. A. B.