

SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

1 THE CIRCLE, SUITE 2
SUSSEX COUNTY COURTHOUSE
GEORGETOWN, DE 19947

January 14, 2010

Amy Welsh
327 Behringer Avenue
Milton, DE 19968

RE: ***Welsh v. Unemployment Insurance Appeal Board***¹
C.A. No. S09A-002-RFS

Dear Ms. Welsh:

Pending before me is your appeal of a decision of the Unemployment Insurance Appeal Board (“Board”). The Board found that you have been eligible for unemployment benefits since February 16, 2009, when you quit your full-time attendance at school to find work.

You now seek to obtain a reversal of the Appeals Referee’s denial of your petition of benefits from December 1, 2008 through February 16, 2009, when you were laid off from your job at the Admiral Hotel, in Rehoboth Beach, Delaware. You had been working from 3 to 11 p.m. at the Hotel since August 2007 and attending full-time classes

¹The Board is a party to any judicial action involving one of its decisions pursuant to 19 *Del. C.* § 3322. Your employer, the Admiral Hotel, was unrepresented.

during the day. There is a rebuttable presumption that a student, whether full or part-time, is not available for work.² The Appeals Referee found that you did not rebut the presumption because you were limiting your job search by not seeking any 9 a.m. to 5 p.m. jobs. Based on *Morgan* and the record evidence of the regularity of your work, there is no error in this conclusion.

When you appeared before the Board you had quit school to look for a job. The Board found that you were available for work and therefore eligible for unemployment benefits as of February 16, 2009. The Court finds no error of fact or law in the Board's decision,³ and that decision is hereby **AFFIRMED**.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes, Judge

Original to Prothonotary

²*Morgan v. Unemployment Ins. Appeal Bd.*, 416 A.2d 1227 (Del. Super. Ct. 1980).

³Title 19 *Del. C.* §3323(a) provides in part as follows:
In any judicial proceeding under this section, the findings of the Unemployment Insurance Appeal Board as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the Court shall be confined to questions of law.