

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

PAUL L. DARRING,)	
)	
Appellant,)	
)	
V.)	C.A. No. N12A-03-020 JRS
)	
K12 SERVICES and)	
The UNEMPLOYMENT)	
INSURANCE APPEAL BOARD,)	
)	
Appellees.)	

Date Submitted: August 17, 2012
Date Decided: November 13, 2012

Upon Consideration of
Appeal From the Unemployment Insurance Appeal Board.
AFFIRMED.

This 13th day of November, 2012, upon consideration of the *pro se* appeal of Paul L. Darring from the decision of the Unemployment Insurance Appeal Board (the “Board”), disqualifying him from the receipt of unemployment benefits from his former employer K12 Services, it appears to the Court that:

1. Mr. Darring was employed by K12 Services as a technology manager

at Moyer Academy from July 15, 2010, until his resignation on August 26, 2011.¹

Moyer Academy is a public charter school operated by K12 Services.²

2. Prior to the 2011-2012 school year, Moyer Academy took steps to alter its curriculum, which in turn required substantial modifications to the technology system utilized by the school.³ As technology manager, Mr. Darring was responsible for ordering the necessary components and furniture items to complete the technology systems update.⁴ He was also to solicit bids from contractors who would perform wiring and other tasks relating to infrastructure.⁵

3. Throughout the process of modifying the technology system at Moyer Academy, Mr. Darring observed that he was often bypassed in technology-related decisions and that his authority as the technology manager had been reduced.⁶ Additionally, Mr. Darring was displeased with the pace at which the project was moving.⁷

¹Record at 15 (hereinafter “R at _”).

²*Id.*

³*Id.* at 18.

⁴*Id.* at 19.

⁵*Id.*

⁶*Id.* at 24.

⁷*Id.* at 19.

4. On August 23, 2011, Mr. Darring submitted a letter of resignation to Dawna Thorton, the principal at Moyer Academy.⁸ On September 11, 2011, Mr. Darring filed a claim for unemployment benefits with the Delaware Department of Labor (“DOL”).⁹ A Claims Deputy with the DOL found that Mr. Darring had voluntarily quit his job for personal reasons and was therefore disqualified from receiving unemployment benefits.¹⁰ Mr. Darring appealed the Claims Deputy’s decision.¹¹

5. Mr. Darring’s appeal was heard by an Appeals Referee on November 9, 2011.¹² At the hearing, Mr. Darring reiterated his impression that he was being bypassed in the decision-making process regarding technology issues and specifically cited a technology-related meeting held at Moyer Academy that he was not invited to attend.¹³ Mr. Darring testified that he resigned after interrupting the meeting.¹⁴ The Appeals Referee found that Mr. Darring voluntarily quit his job for personal

⁸*Id.* at 35.

⁹*Id.* at 8.

¹⁰ *Id.* at 9-10

¹¹*Id.* at 11.

¹²*Id.* at 12. Mr. Darring was present at the hearing, but a representative for the employer did not attend.

¹³*Id.* at 29-30.

¹⁴*Id.*

reasons and was therefore disqualified from receiving unemployment benefits pursuant to 19 *Del. C.* § 3314.¹⁵ The Referee found that frustration at work is not uncommon and Mr. Darring’s displeasure with his job situation did not rise to the level of “good cause” to quit under Delaware law.¹⁶ Mr. Darring appealed the referee’s decision.¹⁷

6. The Board heard Mr. Darring’s appeal on February 22, 2012.¹⁸ At the hearing, Mr. Darring testified that he resigned from his job because he had heard from Moyer Academy’s principal and a vice president of K12 Services that he was at risk of being fired.¹⁹ Additionally, Mr. Darring stated he had wanted to bring two witnesses to testify about his pending termination but, due to scheduling conflicts and Mr. Darring’s inability to receive a second postponement from the Board, the

¹⁵R. at 32-34; 19 *Del. C.* §3314(1): “An individual shall be disqualified for benefits for the week in which the individual left work voluntarily without good cause attributable to such work and for each week thereafter until the individual has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned wages in covered employment equal to not less than 4 times the weekly benefit amount.”

¹⁶*Id.*

¹⁷*Id.* at 36.

¹⁸*Id.* at 45. Mr. Darring’s initial hearing was scheduled for January 18, 2012 but, at Mr. Darring’s request, the hearing was rescheduled. Mr. Darring requested a second rescheduling to accommodate his witnesses’ schedule conflicts, but this request was denied by the Board.

¹⁹R. at 47-49. Mr. Darring did not present any documents or evidence in support of this allegation.

witnesses were not present.²⁰

7. The Board affirmed the Referee's disqualification decision finding that Mr. Darring failed to meet his burden of demonstrating by a preponderance of the evidence that he left his work for "good cause" under the code.²¹ The Board found that Mr. Darring presented no evidence as to a date his employment would be terminated nor did he present evidence of a substantial deviation in his working arrangements.²² Further, the Board found that Mr. Darring did not set forth evidence that he had made any attempts to rectify his work situation through administrative remedies.²³ Mr. Darring appealed the Board's decision to this Court.²⁴

8. The Court's review is limited to determining whether the Board's decision was supported by substantial evidence and free from legal error.²⁵ Substantial evidence is defined as "such relevant evidence as a reasonable mind might accept as

²⁰R. at 51; Mr. Darring initially asserted that he needed a continuance because his primary witness would be out of town; in his second request he claimed that his primary witness was having surgery. Mr. Darring also asserted another witness as going to "fly in" for the hearing, but had a scheduling conflict.

²¹*Id.* at 55.

²²*Id.*

²³*Id.*

²⁴*Id.* at 58.

²⁵*See, e.g., Holowka v. New Castle County Bd. of Adjustment*, 2003 WL 21001026, *3 (Del. Super. 2003).

adequate to support a conclusion.”²⁶ The record must be reviewed in the light most favorable to the prevailing party.²⁷ Alleged errors of law are reviewed *de novo* but, in the absence of legal error, the Board’s decisions are reviewed for an abuse of discretion.²⁸ This Court will find an abuse of discretion only when an administrative board’s decision “exceeds the bounds of reason given the circumstances, or where rules of law or practice have been ignored so as to produce injustice.”²⁹

9. On appeal to this Court, Mr. Darring contends that the Board erred by: (1) finding that Mr. Darring’s concerns about being overlooked in the decision-making process and being considered by K12 for termination did not rise to the level of “good cause” for quitting; and (2) denying his second request for a continuance.³⁰

10. In his brief, Mr. Darring maintains that by not being consulted on all technology-related decisions he experienced a deviation from his original working arrangement so as to establish “good cause” for his voluntary resignation.³¹ The

²⁶*James Julian, Inc. of Del. v. Testerman*, 740 A.2d 514, 519 (Del. Super. Ct. 1999) (citations omitted)

²⁷*See, e.g., Id.; E.I. DuPont De Nemours & Co. v. Faupel*, 859 A.2d 1042, 1046-47 (Del. Super. Ct. 2004).

²⁸*See Merritt v. United Parcel Svc.*, 956 A.2d 1196, 1200 (Del. 2008) (citations omitted).

²⁹*Bolden v. Kraft Foods*, 2005 WL 3526324, *3 (Del. Super. Ct. 2005).

³⁰Opening Br. at p.3.

³¹*Id.*

Court disagrees. The Supreme Court of Delaware has held that “good cause,” in regards to Unemployment Insurance issues, is established where: (1) an employee voluntarily leaves employment for reasons attributable to issues within the employer's control and under circumstances in which no reasonably prudent employee would have remained employed; and (2) the employee first exhausts all reasonable alternatives to resolve the issues before voluntarily terminating his or her employment.³² Despite Mr. Darring’s claims that his experience constitutes a substantial deviation in his working arrangement, the record, as the Board held, is devoid of any such evidence.

11. The Court further agrees with the Board that Mr. Darring did not exhaust his administrative remedies before resigning. Whether or not the “normal” reporting system was available to Mr. Darring during the school’s transition, the record reflects that Mr. Darring did not make *any* attempts to rectify his work situation.³³ Upon walking into a meeting to which he had not been invited, Mr. Darring responded by promptly and without warning submitting his resignation. He made the choice to leave his job and may not now seek unemployment benefits from his employer.

³²*Thompson v. Christiana Care Health Sys.*, 25 A.3d 778, 783 (Del. 2011)

³³Opening Br. at p.3. Mr. Darring alleges that due to the changes at the school the normal method for resolving issues ceased to function.

12. In his brief, Mr. Darring further contends that, by not granting his second request for a continuance, the Board stopped him from presenting necessary witness testimony.³⁴ The Board addressed Mr. Darring's requests for a continuance in its decision, stating that the Board granted Mr. Darring's first request for a continuance for the purpose of allowing him to present witnesses at a subsequent hearing.³⁵ Mr. Darring made a second request for a continuance citing that his witnesses again were unavailable and the Board denied the second request.³⁶ In light of the assortment of scheduling conflicts submitted by Mr. Darring, the Court finds that the Board did not abuse its discretion in denying Mr. Darring's second request for a continuance.

13. Based on the foregoing, the Court is satisfied that the Board applied the correct legal standards and that its decision is supported by substantial evidence.³⁷

³⁴The Court notes that the Board granted Mr. Darring's first request to reschedule his hearing. The hearing was moved from January 18, 2012 to February 22, 2012 to accommodate Mr. Darring's witnesses.

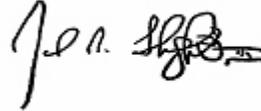
³⁵R.at 54.

³⁶*Id.*

³⁷In their answering brief, Appellees raise a timeliness issue in regards to Appellant's appeal. The Court finds that the appeal fails on the merits and, as such, does not reach the issue of timeliness.

Accordingly, the decision of the Board denying benefits to Mr. Darring must be **AFFIRMED.**

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "J. R. Slights, III". The signature is written in a cursive style with a horizontal line at the end.

Judge Joseph R. Slights, III

Original to Prothonotary