



Goodz v. Unemployment Compensation Board of Review

2007 | Cited 0 times | Supreme Court of Pennsylvania | November 8, 2007

SUBMITTED: September 21, 2007

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge, HONORABLE RENÉE COHN JUBELIRER, Judge, HONORABLE JIM FLAHERTY, Senior Judge.

OPINION NOT REPORTED

MEMORANDUM OPINION

Laura A. Goodz ("Goodz" or "Claimant"), appearing pro se, petitions this court for review of the order of the Unemployment Compensation Board of Review ("Board"), which denied her claim for unemployment compensation benefits on the ground that she voluntarily terminated her employment without necessitous and compelling reason. The question presented for review is whether Goodz's discomfort with her supervisor's management style and the supervisor's alleged singling out of Goodz provided a necessitous and compelling reason to terminate her employment.¹ We affirm.

Goodz was employed by WW Grainger ("Grainger") as a full-time customer service associate from March 27, 2006 through January 23, 2007. Claimant alleges, inter alia, that her supervisor repeatedly and unfairly singled her out for undeserved criticism, assigned her more audit work than her co-workers, refused to send her to new employee computer training, and stole her water bottle. On January 23, 2007, the supervisor sent Goodz an instant message asking her why she had been logged off the computer system for forty-five minutes. The supervisor directed her to log back on to the system. Shortly thereafter, Goodz began yelling at the supervisor and engaged in a heated argument with him. Following the completion of the work day and an overtime meeting, Goodz called the supervisor and left a voice mail message informing him that she was quitting.

Goodz applied for benefits, which were denied. She appealed the denial of benefits and a hearing was held. Based on testimony from Goodz, John Kerestus, a customer service associate at Grainger, and Brian Smrke, the branch manager, the referee determined that Goodz was ineligible for benefits. Goodz then appealed to the Board. The Board credited Smrke's testimony that he did not single out Goodz and directed constructive criticism towards both Goodz and her co-workers. In addition, the Board held that Goodz did not take steps to preserve her employment because she failed to call the toll free human resources telephone number to report her problems with her supervisor, Smrke. The Board affirmed the denial of benefits holding that Goodz voluntarily left her employment without a



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necessitous and compelling reason for doing so.

Under Section 402(b) of the Pennsylvania Unemployment Compensation Law, an employee is ineligible for unemployment compensation for any week in which unemployment is due to voluntarily leaving work without cause of a necessitous and compelling nature. See 43 P.S. § 802(b).² Whether the Claimant had a necessitous and compelling cause to terminate her employment is a legal conclusion drawn from the factual findings and subject to this court's plenary review. *Anchor Darling Valve Co. v. Unemployment Comp. Bd. of Review*, 598 A.2d 647, 649 (Pa. Cmwlth. 1991). It is the claimant's burden to demonstrate that a voluntary quit was necessitous and compelling. *McCarthy v. Unemployment Comp. Bd. of Review*, 829 A.2d 166, 1270 (Pa. Cmwlth. 2003). In order to establish that a voluntary quit was necessitous and compelling, the claimant must demonstrate:

1. circumstances existed which produced real and substantial pressure to terminate employment;
2. like circumstances would compel a reasonable person to act in the same manner;
3. she acted with ordinary common sense; and
4. she made a reasonable effort to preserve her employment.

Comitalo v. Unemployment Comp. Bd. of Review, 737 A.2d 342, 344 (Pa. Cmwlth. 1999) (citation omitted).

It is well-settled that a claimant cannot establish cause to quit where a claimant merely disagrees with an employer's policies or is dissatisfied with working conditions due to differences with an employer's management style. *Gioia v. Unemployment Comp. Bd. of Review*, 661 A.2d 34, 37 (Pa. Cmwlth. 1995). Similarly, resentment of supervisory criticism or a mere personality conflict with a supervisor or co-worker, absent an intolerable work environment, does not constitute cause to quit. *Id.* However, cause to quit may exist where the employee is continuously subjected to unjust accusations, abusive conduct, or profane language, *Whisner v. Unemployment Comp. Bd. of Review*, 446 A.2d 336, 338 (Pa. Cmwlth. 1982), or where deterioration in a relationship with a superior or co-worker becomes so intractable that working conditions are intolerable. *Karloff v. Unemployment Comp. Bd. of Review*, 531 A.2d 582, 584 (Pa. Cmwlth. 1987).

In the present case, Goodz felt that her supervisor repeatedly singled her out for undeserved criticism, spoke to her in a condescending manner and humiliated her in front of co-workers. However, the Board accepted Smrke's testimony to the contrary. Moreover, Goodz did not allege that Smrke subjected her to abusive conduct or profane language. Goodz has not established that Smrke's behavior created an intolerable work environment. Rather the record merely reflects the existence of a personality conflict between them and the resentment of supervisory criticism on the part of Goodz. A personality conflict between a claimant and a supervisor and resentment of supervisory



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criticism is not compelling cause to voluntarily quit one's job. *Creason v. Unemployment Comp. Bd. of Review*, 554 A.2d 177, 179 (Pa. Cmwlth. 1989).

In addition, Goodz did not make reasonable efforts to maintain her employment before she resigned. Although, Goodz communicated her displeasure with Smrke's management style to him and spoke with a different branch manager about transferring to another branch, Goodz did not utilize the anonymous, toll free telephone number posted in the lunch room and on the company intranet to contact the human resources department about Smrke's behavior until after resigning her position. Because Goodz failed to contact the human resources department, she did not make a reasonable effort to maintain her employment. See *Platz v. Unemployment Comp. Bd. of Review*, 709 A.2d 450, 452-453 (Pa. Cmwlth. 1998).

Goodz also alleges that the referee and Board failed to credit any of her testimony and that the testimony of Smrke is untrue. In unemployment compensation cases, the Board is the ultimate finder of fact and is empowered to determine the credibility of witnesses. *McCarthy*, 829 A.2d at 1269-70. In making credibility determinations, the Board is free to accept or reject, in whole or in part, the testimony of any witness. *Id.* at 1270. If the record, when examined as a whole, contains substantial evidence to support the Board's findings of fact, then those findings are conclusive and binding on appeal. *DeRiggi v. Unemployment Comp. Bd. of Review*, 856 A.2d 253, 255 (Pa. Cmwlth. 2004).

A review of the record reveals that there is substantial evidence to support the Board's finding. The Board was free to find the testimony of Kerestus and Smrke credible and to resolve any conflicts in testimony in favor of the employer. See *McCarthy*, 829 A.2d at 1270. The Board properly concluded that Goodz failed to demonstrate necessitous and compelling reason to terminate her employment.

Accordingly, we affirm.

ORDER

AND NOW, this 8th day of November, 2007, the order of Unemployment Compensation Board of Review in the above captioned matter is hereby AFFIRMED.

BONNIE BRIGANCE LEADBETTER, President Judge

1. The Board contends that because Claimant has not properly developed any issue or cited sufficient case law in her brief, Claimant's arguments should be deemed waived, her brief quashed and her appeal dismissed. While we note that Claimant's brief contains many defects, we have "considered the merits of particular cases where defects in the brief did not preclude meaningful appellate review or result in waiver of issues." *Russell v. Unemployment Comp. Bd. of Review*, 812 A.2d 780, 783-784 n.3 (Pa. Cmwlth. 2002). Therefore, because we can discern the argument raised by the Claimant, we deem review to be possible. See *id.*



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2. Unemployment Compensation Law, Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, as amended, 43 P.S. §§ 751-914.

