STATE OF RHODE ISLAND
PROVIDENCE, Sc.

DISTRICT COURT
SIXTH DIVISION

Roberta J. Quinlan	:	
	:	
v.	:	**A.A. No. 2022 - 185**
	:	
Department of Labor and Training,	:	
Board of Review	:	

O R D E R

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings & Recommendations of the Magistrate.

After a de novo review of the record and the memoranda of counsel, the Court finds that the Findings & Recommendations of the Magistrate are supported by the record and are an appropriate disposition of the facts and the law applicable thereto.

It is, therefore, ORDERED, ADJUDGED AND DECREED,

that the Findings & Recommendations of the Magistrate are adopted by reference as the Decision of the Court and the decision of the Board of Review is hereby AFFIRMED.

Entered as an Order of this Court at Providence on this 31st day of October, 2023.

By Order:

/s/

Enter:

/s/
Jeanne E. LaFazia
Chief Judge

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FINDINGS & RECOMMENDATIONS

Ippolito, M. In this case the District Court, exercising the jurisdiction granted to it by G.L. 1956 § 28-44-52, must decide whether the Department of Labor and Training Board of Review erred when it held Ms. Roberta Quinlan (Claimant or Appellant) to be disqualified from receiving unemployment insurance benefits because she quit her prior position without good cause, as that term is employed in G.L. 1956 § 28-44-17. This matter has been referred to me for the making of findings and recommendations pursuant to G.L. 1956 § 8-8-8.1. Doing so, and for

the reasons I shall now set forth, I have concluded that the decision of the Board of Review in the instant case should be AFFIRMED. I so recommend.

I

Facts and Travel of the Case

Appellant Roberta Quinlan worked for Pannone, Lopes, & Devereaux (the Law Firm), for approximately five and one-half years as a legal administrative assistant. *Dec. of Referee,* at 1 (in Electronic Record (*ER*) at 29). As it happened, a woman who was a friend of Claimant's for many years also worked at the Law Firm — as a paralegal. *Id*. But then the friendship ended; animosity developed when Claimant made comments after her friend went through the break-up of a relationship. *Id*. The Firm imposed accommodations to separate the parties as much as possible. *Id*. Nevertheless, at the end of the workday on February 2, 2022, Claimant submitted her resignation by email. *Id*.

Ms. Quinlan filed a claim for unemployment benefits on February 3, 2022, effective January 30, 2022.

A

The Decision of the Director

On February 24, 2022, a designee of the Director of the Department of Labor and Training, an *adjudicator*, spoke to Ms. Quinlan to learn why she had left her position. *See* DLT FORM 480, at 1; *ER* at 34. Claimant explained:

> My last day of work was 02/02/22. I quit on that day. I did not tell anyone I was quitting; I just stopped reporting. I quit because I had been bullied by my coworker, Robin Lemoie,

> for the last few years. The final incident took place on 02/02/22. I received an email from my supervisor, Barbara Carreira, asking how many files I had pending to be opened because she was aware of a closing that was scheduled later in the week. I knew based on that email that Robin must have complained to Barbara that I was not opening my files. I had problems with Robin over the years, but nothing was ever done. Three years before she had sent me a text saying she was going to punch me in the face. I did not contact the police because she knew where I parked my car and I was afraid of retaliation. No, I do not know that Robin was behind the email Barbara sent me, but I was tired of being a target of Robin's abuse.

See DLT FORM 480, at 1; *ER* at 34. The same day, the adjudicator also spoke to the Firm's Administrator, Barbara Carreira, who responded as follows:

> … Roberta last worked on 02/02/22 and sent an email at the end of her shift stating she was quitting. She did not give a reason. She had let us know that she had an issue with another employee, but that employee made the same complaints about Roberta. We separated them and they no longer were coming into contact with each other. I am not comfortable providing any further details.

See DLT FORM 480, at 2; *ER* at 35.

Based on the information that had been obtained, the adjudicator issued a Decision on March 10, 2022 which found that Claimant had quit her job without good cause within the meaning of G.L. 1956 § 28-44-17, since she had not shown that her job was unsuitable. *See Dec. of Director,* at 1; *ER* at 38.

B

The Proceedings Before the Referee

Claimant filed an appeal. As a result, a telephonic hearing was scheduled before a Referee employed by the Board of Review on May 19, 2022. *Ref. Hr'g Tr.* at 1. Ms. Quinlan attended, assisted by Counsel. *Id.* The Law Firm was represented by Ms. Carreira. *Ref. Hr'g Tr.* at 1. After the participants were linked into a conference call, the Referee explained how the hearing would proceed. *Id.* at 5-6. Following this, he administered the testimonial oath to all except the attorney. *Id.* at 6. Next, he identified the exhibits that had been transferred to the Board by the Department. *Id.* at 7-8. These tasks completed, the Referee called upon Counsel to begin her direct examination of Ms. Quinlan. *Id.* at 9.

Ms. Quinlan stated that she resigned because she was being harassed by a co-worker — Robin Lamoie. *Id.*

Appellant said she informed the attorney with whom she most closely worked, Gene Carlino, and the Firm's Administrator, Barbara Carreira. *Id.* at 9-10. She said that on the first occasion that she spoke to him, Mr. Carlino said that both Appellant and Ms. Lamoie were of value and "neither one of you is going anywhere" and "[i]f this was up to me, I'd put you both in a room until you figured it out." *Id.* at 10. And, on the second occasion, he said that she (that is, Ms. Quinlan) "needed to grow thicker skin." *Id.* Ms. Carreira's initial response

was to acknowledge that Ms. Lamoie's behavior had changed and that she "… was the target of Robin's complaints and dissatisfaction. *Id.* Ms. Quinlan revealed that she and Ms. Lamoie were in regular contact, since they both worked with Mr. Carlino; they were in meetings together and "communicated by email all day." *Id.* at 11.

Claimant alleged that Ms. Lamoie threatened her with violence in a text message chain. *Ref. Hr'g Tr.* at 11.[1] Explaining how this came about, she stated that she and Robin Lamoie had been "decades long" friends and Ms. Lamoie "was instrumental in assisting me with gaining employment at Pannone Lopes." *Id.* And, thereafter, they remained friendly. *Id.* But, when Robin broke up with her boyfriend, she became distraught. *Id.* Ms. Quinlan offered some comments on the matter, which triggered a falling out between the two. *Id.*

Appellant testified that she took the threat very seriously and showed it to Ms. Carreira, who characterized the message to be "tantamount to violence in the workplace." *Id.* at 12. Ms. Quinlan denied that the Firm "separated" the two employees. *Id.* She still had to work with her "on a pretty much daily basis." *Id.*

Finally, Ms. Quinlan denied that she attempted to receive any benefits for which she knew she was not eligible and was honest in all her communications with the Department. *Id.* at 13. With this, her direct

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[1] Later, answering a question put by the Referee, Appellant stated that she received the text in September of 2018. *Id.* at 13.

examination by her counsel ended. *Id.* After the Employer's representative declined to cross-examine Appellant, the Referee posed several questions. *Id.*

When asked what prompted her decision to resign, Ms. Quinlan stated that on the morning of Monday, February 1st, she received a call from Terry Allen, one of Mr. Carlino's assistants, who asked if she had the physical paper Redwald file; Claimant answered no. *Ref. Hr'g Tr.* at 13-14. But through the phone, she could hear Ms. Lamoie screaming to Ms. Allen, saying Roberta has the file, it is "checked out" to her. *Id.* 14. But, while she and Ms. Allen were discussing another matter, Ms. Allen advised her that the file had been found in Robin's office. *Id.*

The following morning, when Claimant arrived at work, she was directed to meet Mr. Carlino in the Conference Room and, when she did, he told her that Robin was expected to attend the meeting, but she was late. *Id.* He then instructed Ms. Quinlan to take notes, to open a file, and to create an engagement letter to the Client. *Id.* After she returned from her desk, she reentered the Conference Room, where she found Robin, whose face was puffy, and her hands were shaking. *Id.* at 14-15. She was reaching for a cup of coffee. *Id.* at 15. Robin looked at her. Id. at 14. Ms. Quinlan concluded that Ms. Lamoie was hung over. *Id.* at 15. At that moment, she said to herself that —

> … if this is what you want to be the face of the department, then you can have it, and that's when I made my decision to leave.

Id. At this juncture, the Referee asked Ms. Carreira for her perspective on the separation. *Id*.

Ms. Carreira responded —

> As far as separation goes, I did not know that Roberta intended to leave that date. I did not know that she intended to leave period. I was informed by one of her coworkers that she was leaving and received a notification in an email to the trust and estates department of which my name happens to be included, but it was not sent directly to administration. It was just a "As of this day I am no longer employed. I resign my position." And that was all I knew.

Ref. Hr'g Tr. at 15.[2] Ms. Carreira added that Ms. Quinlan finished out the day. *Id*.

Then, Ms. Quinlan's Counsel posed some questions to Ms. Carreira. *Id*. at 16. Firstly, Ms. Carreira conceded that she was aware of the issues between Ms. Quinlan and Ms. Lamoie: they had claims against each other for interruptions to their working day. *Id*. Things that were not getting done by one or the other felt retaliatory. *Id*. She was made aware of at least some of the texts. *Id*. She noted that the threatening text message was on a personal phone regarding their personal relationship. *Id*. She indicated that, in order to lessen the situation, she met with them separately on multiple occasions, and received accusations from each that her counterpart was preventing work from getting done. *Id*. at 16-17. And Roberta's seat was moved at least 100 feet away. *Id*. at

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[2] Mr. Carreira added that the Firm did not oppose Ms. Quinlan's claim for unemployment benefits. *Id*. at 15.

17. But, since they were still in the same department, they did have to communicate by email and be present together in meetings, though the latter was minimized when possible. *Id*. And Claimant was given assignments with different attorneys, though this process was hindered (and ultimately thwarted) by the COVID crisis. *Id*. When she returned, she was assigned to intake management (opening new client matters) for Mr. Carlino. *Id*. at 17-18.

Finally, Ms. Carreira said that she was not aware of the matter (in the conference room) which precipitated Claimant's resignation until she received the documentation package from the Board of Review. *Id*. at 18. She added that she often would inquire of the status of new client matters. *Id*. She also denied receiving a complaint that Ms. Lamoie had been screaming. *Id*. And the incident allegedly took place in an "exposed area." *Id*. at 19. This said, her testimony was ended, and the Referee closed the hearing. *Id*. at 19-20.

2

The Decision Rendered by the Referee

The next day, on May 20, 2022, the Referee issued his decision. The Referee's findings of fact regarding the leaving-for-good-cause issue read as follows:

> Claimant worked approximately 5½ years as a legal administrative assistant. Claimant had a personal "decades long" relationship with a paralegal working at the same firm. The personal friend/coworker had a breakup with her boyfriend. Claimant offered comfort and offered opinions on the breakup that resulted in a "falling out." Employer was

> aware of the personal relationship and subsequent fallout causing complications between the two. Limited accommodations were made to separate the parties as much as possible. Following completion of the workday February 2, 2022 the claimant emailed the employer resigning. Claimant provided no reason for her resignation.

Referee's Dec., May 20, 2022, at 1 (*ER* at 29). This finding led him to formulate the following conclusions on the good-cause issue:

> Claimant points to at least 2 significant incidences that caused her to walk out on her job with no notice. The most recent had to do with a client file that a legal assistant was searching for and the alleged screaming by the claimant's friend/coworker in an open public area accusing the claimant of having the file. There is no support for this allegation neither does it provide good cause for job abandonment. The 2nd incident occurred September 2018 in a text message between the claimant and her friend/coworker during nonwork hours in which the claimant apologizes for acting "ill mannered" and treating the other "unfairly and disrespectfully." The response was "if you ever put your finger in my face again I will f...g deck you." This was a personal exchange in non-business-related communication occurring 3½ years earlier.

Referee's Dec. at 2 (*ER* at 30). Based on this set of conclusions, the Referee affirmed the Decision of the Director regarding Claimant's disqualification pursuant to § 28-44-17. *Id.*

3

The Decision of the Board of Review

Ms. Quinlan sought relief from this decision from the Board of Review, which did not conduct a new hearing; instead, the Board decided the case on the basis of the record developed by the Referee, as it has the authority to do under

G.L. 1956 § 28-44-47. Employing this procedure, the Chairman, acting on behalf of the Board, affirmed the Referee's decision, finding it to be a proper adjudication of the facts of the case and the law applicable thereto; the Referee's decision was then adopted as the decision of the Board. *See Dec. of Bd. of Review,* July 7, 2022, at 1 (*ER* at 2).

Finally, Claimant filed the instant petition for judicial review in the Sixth Division District Court.

II
Applicable Law

Our review of this case involves the application and interpretation of the following provision of the Rhode Island Employment Security Act, which specifically touches on the concept of voluntary leaving without good cause; G.L. 1956 § 28-44-17, provides:

> **28-44-17. Voluntary leaving without good cause.** – (a) … For benefit years beginning on or after July 6, 2014, an individual who leaves work voluntarily without good cause shall be ineligible for waiting period credit or benefits for the week in which the voluntary quit occurred and until he or she establishes to the satisfaction of the director that he or she has, subsequent to that leaving, had earnings greater than, or equal to, eight (8) times his or her weekly benefit rate for performing services in employment for one or more employers subject to chapters 42 — 44 of this title.
> ….

Based upon the language of this statute, we see that eligibility for unemployment benefits under § 17 has three prerequisites — *first,* that the

claimant *left* his or her prior employment; *second,* that the resignation was *voluntary; and third,* that the claimant left the position *for good cause,* as defined in § 17. Finally, it is well-settled that, to be eligible for unemployment benefits, a worker who leaves her position voluntarily bears the burden of proving that he did so for good cause.

B

The Element of "Good Cause" — the Case Law

In a series of cases during the last half-century our Supreme Court has endeavored to clarify the meaning of "good cause," as that term is used in § 28-44-17. Let us review a sampling of these cases, beginning with *Harraka v. Bd. of Rev. of Dep't of Emp't. Sec.,* 98 R.I. 197, 200 A.2d 595 (1964), in which the Court considered the petition of Mr. Joseph Harraka, who, upon his discharge from the armed forces, accepted employment in the chemical industry, but quit after one week, due to a reaction to the chemicals with which he was working. *Harraka,* 98 R.I. at 198-99, 200 A.2d at 596. He inquired — but was told that other work was not available. *Harraka,* 98 R.I. at 199, 200 A.2d at 596-97.

Mr. Harraka applied for benefits under the ex-serviceman's provision, but his claim was denied by the Director; the ruling was affirmed by the Board of Review, which found that one week was not a sufficient period in which to determine the suitability of the position. *Harraka*, 98 R.I. at 199-200, 200 A.2d at 596-97. Moreover, the Board held that Mr. Harraka's reasons for leaving were personal and not of a "compelling nature;" therefore, his reasons for leaving did

not constitute good cause within the meaning of the Employment Security Act. *Id*. The Superior Court affirmed. *Id.*

In considering Mr. Harraka's appeal, the Supreme Court rejected the view that the "good cause" element of § 28-44-17 requires that the claimant's reason for quitting be of a "compelling nature." *Harraka,* 98 R.I. at 201, 200 A.2d at 596. Instead, the Court announced that a liberal reading of good cause would be adopted:

> … To view the statutory language as requiring an employee to establish that he terminated his employment *under compulsion* is to make any voluntary termination thereof work a forfeiture of his eligibility under the act. This, in our opinion, amounts to reading into the statute a provision that the legislature did not contemplate at the time of its enactment.
>
> In excluding from eligibility for benefit payments those who voluntarily terminate their employment without good cause, the legislature intended in the public interest to secure the fund from which the payments are made against depletion by payment of benefits to the shirker, the indolent, or the malingerer. However, the same public interest demands of this court an interpretation sufficiently liberal to permit the benefits of the act to be made available to employees who in good faith voluntarily leave their employment because the conditions thereof are such that continued exposure thereto would cause or aggravate nervous reactions or otherwise produce psychological trauma.

Harraka, 98 R.I. at 201, 200 A.2d at 597-98 (Emphasis added). Applying this standard, the Court reversed the decision below, finding Mr. Harraka had good cause to leave his employment. *Harraka*, 98 R.I. at 203, 200 A.2d at 598-99.

Four years later, the Court issued a brief opinion addressing good cause in *Cahoone v. Bd. of Rev. of Dep't of Emp't Sec.,* 104 R.I. 503, 246 A.2d 213

(1968). Claimant Cahoone, a gentleman experienced in the art of building and repairing boats, accepted temporary employment driving a truck for the post office during the Christmas rush; he quit after one day. *Cahoone,* 104 R.I. at 504-05, 246 A.2d at 214. As recounted by the Court, the Board of Review's decision denying benefits to Mr. Cahoone under § 17 was grounded on its conclusion that *he did not terminate for job unsuitability,* but because he was assigned to drive a truck, and not to deliver mail, which he preferred. *Cahoone*, 104 R.I. at 505-06, 246 A.2d at 214 (Emphasis added). The Superior Court Justice (Weisberger, J.) affirmed the Board's decision, finding that, while reasonable minds might have reached a contrary result, the limitations on his review imposed by § 42-35-15(f) and (g) prevented him from modifying or reversing the administrative decision. *Cahoone*, 104 R.I. at 506-07, 246 A.2d at 214. And the Supreme Court agreed. *Cahoone*, 104 R.I. at 507, 246 A.2d at 214.

In *Murphy v. Fascio,* 115 R.I. 33, 340 A.2d 137 (1975), the Court considered the claim of Ms. Kathleen Murphy, who left her position with a local manufacturer in order to marry and relocate with her new husband to the state of Georgia. *Murphy,* 115 R.I. at 34, 340 A.2d at 138. The Court first decided that the question (whether resigning to marry and relocate constituted good cause to quit) was one of law — to be resolved by asking whether "it comports with the policies underlying the Employment Security Act." *Murphy,* 115 R.I. at 36, 340 A.2d at 139.

Next, the Court reminded us that "… unemployment benefits were intended to alleviate the economic insecurity arising from *termination of employment the prevention of which was effectively beyond the employee's*

control." *Murphy, id*., (citing G.L. 1956 § 28-42-2 (Emphasis added)). The Court found that Ms. Murphy's reasons for quitting did not meet this *beyond-the-employee's-control* standard. *Murphy,* 115 R.I. at 36, 340 A.2d at 139. And even though, in *Harraka*, the Court had rejected the Board's view that good cause had to be a reason of a "compelling nature," the Court disallowed Ms. Murphy's claim, finding that her reason for leaving did not "involve the kind or degree of compulsion which the legislature intended 'good cause' should entail[,]" proclaiming —

> The Employment Security Act was intended to protect individuals from the hardships of unemployment the advent of which involves a *substantial degree of compulsion.*

Murphy, 115 R.I. at 37, 340 A.2d at 139 (Emphasis added).

The most recent § 28-44-17 case we shall review is *Rocky Hill School, Inc. v. Dep't of Labor & Training, Bd. of Review,* 668 A.2d 1241 (R.I. 1985), a case in which benefits were granted by the Board of Review to a teacher named Geiersbach who quit his position at the Rocky Hill School in order to accompany his wife — who also had been a Rocky Hill teacher — to Colorado, where she had obtained a new and better position. *Rocky Hill,* 668 A.2d at 1241. The District Court affirmed. *Id*. The Supreme Court held that the Board had been correct when it noted a "subtle but significant distinction" between Ms. Murphy's claim and Mr. Geiersbach's — that he was already married. *Rocky Hill,* 668 A.2d at 1243. The Court proclaimed "* * * that public policy requires that families not be discouraged from remaining together." *Rocky Hill,* 668 A.2d at 1244. And so, it found that the Claimant did indeed have good cause to quit. *Id*.

The application of the *Rocky Hill* holding was limited from its inception, because, in *Murphy*, the Court had previously declined to accord good-cause status to an act of quitting and relocating *to get* married. It should be noted that the holding in *Rocky Hill* was subsequently codified within subsection 28-44-17(a)(2). *See* P.L. 2010, ch. 23, art. 22, § 2. In any event, relocation for any other reason has not been held to constitute good cause. Therefore, the District Court has regarded the *Rocky Hill* case as a narrow exception to the general principle that those who relocate for personal reasons are ineligible to receive unemployment benefits.

C
The Element of Good Cause Generally — In Sum

From the foregoing review of our Supreme Court's § 17 literature, we can see that, to establish "good cause," the Claimant's reasons for quitting must not only meet the *Murphy* test of involving a "substantial degree of compulsion," but must also satisfy the *Harraka* test that the work had become in some manner unsuitable for the claimant. It is because of this latter requirement that successful assertions of "good cause" are, with few exceptions, work-related.

III
Standard of Review

The standard of review applicable to this appeal is provided by G.L. 1956 § 42-35-15(g), a section of the state Administrative Procedures Act, which provides as follows:

> **42-35-15. Judicial review of contested cases. ...**
> (g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
> (1) In violation of constitutional or statutory provisions;
> (2) In excess of the statutory authority of the agency;
> (3) Made upon unlawful procedure;
> (4) Affected by other error of law;
> (5) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
> (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Thus, on questions of fact, the District Court "* * * may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are 'clearly erroneous.' " *Guarino v. Dep't of Soc. Welfare,* 122 R.I. 583, 584, 410 A.2d 425 (1980) (citing G.L. 1956 § 42-35-15(g)(5)). The Court will not substitute its judgment for that of the Board as to the weight of the evidence on questions of fact. *Cahoone v. Bd. of Review of the Dep't of Emp't Sec.,* 104 R.I. 503, 246 A.2d 213 (1968).

In evaluating specific circumstances which might constitute "good cause" to quit, the Court confronts a mixed question of law and fact. *D'Ambra v. Bd. of Review, Dep't of Emp't Security,* 517 A.2d 1039, 1040 (R.I. 1986). Where the record supports only one conclusion, the case must be decided as a matter of law. *D'Ambra,* 517 A.2d at 1041. On the other hand, if more than one reasonable conclusion could be reached, the agency decision will be affirmed. *Id.*

The Supreme Court of Rhode Island recognized in *Harraka v. Bd. of Review of the Dep't of Emp't Security,* 98 R.I. 197, 200 A.2d 595 (1964), that a liberal interpretation shall be utilized in construing and applying the Employment Security Act:

> * * * eligibility for benefits is to be determined in the light of the expressed legislative policy that "Chapters 42 to 44, inclusive, of this title shall be construed liberally in aid of their declared purpose which declared purpose is to lighten the burden which now falls upon the unemployed worker and his family." G.L. 1956, § 28-42-73. The legislature having thus declared a policy of liberal construction, this court, in construing the act, must seek to give as broad an effect to its humanitarian purpose as it reasonably may in the circumstances. Of course, compliance with the legislative policy does not warrant an extension of eligibility by this court to any person or class of persons not intended by the legislature to share in the benefits of the act; but neither does it permit this court to enlarge the exclusionary effect of expressed restrictions on eligibility under the guise of construing such provisions of the act.

Harraka, 98 R.I. at 200, 200 A.2d at 597.

IV
Analysis
A
Positions of the Parties

The parties in this case filed memoranda which the Court has found to be helpful to its resolution of this matter.

1
Position of the Claimant/Appellant

In her Memorandum, Ms. Quinlan recapped the events that led to her departure from the Firm, including the off-duty incident in which she alleged she was threatened, and the response she received when she brought this incident to the attention of her supervising attorney and Ms. Carreira; she also rehearsed the events of the first of February (regarding the inquiry about the file) and the second of February (the incident in the conference room). *Appellant's Mem.* at 3-5. Then she asserted:

> It is a well-established principle that a claimant should not be denied employment security benefits when they were forced to leave a position due to a hostile situation which the employer was on notice of but did not effectively cure. The Employer in this case was well aware of the Appellant's ongoing fear and concern regarding Robin, yet the Appellant was still required to work directly alongside her on a regular basis. The Employer had repeatedly rebuffed her attempts to seek their assistance in the situation, and instead offered ineffective solutions such as moving the Appellant's desk, but yet still required her to work on the same files and with the same attorney in situations that necessitated collaboration and continual communication.

Appellant's Mem. at 5-6. Ms. Quinlan then urges that it is of no consequence that the threat occurred after work hours. *Id.* at 6. The Employer, nonetheless, still had a duty to act — specifically, by transferring at least one of the parties to a different department or having one work remotely. *Id.* And so, because of the Firm's failure to take remedial action, Appellant urges that her position was no

longer suitable, that she had no reasonable alternative to submitting her resignation, and that she should be awarded benefits. *Id*. at 7.

2

Position of the Respondent Board of Review

In its Memorandum of Law, the Board of Review endeavored to rebut Appellant's assertions of error. *See Mem. of Bd. of Review*, at 4-5.

It did so by invoking the standard of good cause set forth in *Powell v. Dep't of Emp. Sec., Bd. of Review,* 477 A.2d 93 (R.I. 1984). In *Powell*, the Supreme Court of Rhode Island stated that "[t]he key to the analysis of Section 28-44-17 is whether claimant voluntarily terminated his employment because of circumstances that were effectively beyond his control." *Id*. at 4 (quoting *Powell,* 477 A.2d at 96-97). The Board asserted that the circumstances of Ms. Quinlan's departure from the Firm did not meet this standard. It stated:

> Appellant points to an acrimonious relationship with her coworker that arose from a personal disagreement. The evidence falls short of showing that the relationship rendered her job unsuitable or that she was left with no alternative but to resign. Rather, Claimant made the personal decision to leave her job when she was dissatisfied with her coworker's presentation at a meeting. The asserted threat occurred more than three (3) years prior and, according to Appellant, did not serve as the basis for her decision to resign. The Employer took measures to limit the interaction between the coworkers. The record supports the Referee's conclusion that the evidence does not support Appellant's assertion that Claimant's coworker raised her voice in an open area and blamed Appellant for the missing file. The facts as presented in the record fail to sustain Appellant's

> burden to provide that her job was unsuitable or that she was left with no reasonable alternative but to resign.

Mem. of Bd. of Review, at 5. Thus, in the Board's view, its finding (that Claimant voluntarily quit without good cause) was supported by the evidence of record. *Id.*

B

Discussion

We may next turn to the overarching issue raised by Ms. Quinlan — that she should be declared to be eligible for benefits, notwithstanding the application of § 28-44-17, because she left her position with the Firm for good cause.

The facts in this case are largely not in dispute. Neither side denies that Ms. Lamoie and Ms. Quinlan had a significant quarrel in September of 2018, one which ended a longstanding friendship. The Firm responded with measures of physical separation that the Referee fairly characterized as "limited," though, in fairness, further steps were anticipated but their implementation was hindered by the onset of the COVID pandemic — according to Ms. Carreira. Nevertheless, while there was undoubtedly a substantial background to the dispute, Ms. Quinlan had not chosen to resign in the aftermath of the 2018 or in the three plus years since.

So, what triggered her departure in February of 2022? Two incidents were discussed by Ms. Quinlan. The first, on Monday February 1, 2022, involved Robin Lamoie yelling (while near another employee who was speaking to Ms.

Quinlan by phone) that Claimant had a file which was thereafter found in Ms. Lamoie's office. But the Referee did not credit this allegation, stating that there was "no support for this allegation." This he was entitled to find based on Ms. Carreira's testimony that the incident, as Claimant described it, would have happened in an open area — but she received no reports about any yelling.

The final incident which precipitated Claimant's departure was the incident in the Conference Room. Ms. Lamoie was late so Ms. Quinlan had to fill in. Ms. Lamoie arrived late and looked, in her estimation, hung over. As Ms. Quinlan explained her feelings, she was *offended* by Ms. Lamoie's behavior and *disappointed* that the Firm would, as she saw it, tolerate such behavior.

But Claimant did not explain how these incidents made *her job* unsuitable to the degree that she had to resign immediately. Ms. Quinlan did not allege that Ms. Lamoie acted violently or threatened violence, was abusive, or insulting. In fact, according to the record in this case, there had been no threat of violence since 2018. Moreover, Claimant did not show, or even allege that these episodes were negatively affecting her standing with the lawyers and managers within the Firm.

As we have seen, a claimant who quits voluntarily must show that her separation from her prior employment was under circumstances effectively beyond her control, *Murphy,* 115 R.I. at 36, 340 A.2d at 139, and which involved a substantial degree of compulsion. *Murphy,* 115 R.I. at 36, 340 A.2d at 139. The

Board, adopting the Referee's decision as its own, found that these conditions were not satisfied at the time when Claimant resigned. After a reading of the entire record in this case, I conclude that this finding is supported by competent evidence of record.

V
Conclusion

For the forgoing reasons, I recommend that this Court find that the decision of the Board of Review is not clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. G.L. 1956 § 42-35-15(g)(6). Neither is it contrary to law or made upon unlawful procedure. G.L. 1956 § 42-35-15(g)(3),(4),(5). I must therefore recommend that it be AFFIRMED.

/s/
Joseph P. Ippolito
MAGISTRATE

October 31, 2023