STATE OF RHODE ISLAND
PROVIDENCE, Sc.

DISTRICT COURT
SIXTH DIVISION

Rachel M. Clay	:	
	:	
v.	:	**A.A. No. 2023 - 087**
	:	
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 20th day of June, 2024.

Enter:

/s/
Jeanne E. LaFazia
Chief Judge

By Order:

/s/
Clerk

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F I N D I N G S & R E C O M M E N D A T I O N S

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 (the Department) erred when it held that Ms. Rachel Clay (Claimant or Appellant) would be disqualified from receiving unemployment insurance benefits because she quit her prior position without good cause. 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 Rachel Clay worked for the Lincoln Technical Institute as a Medical-Assistant instructor until August 22, 2023, when she quit. She filed a claim for unemployment benefits. *See* "Claim Data" section of DLT FORM 480 (which may be found in the 41-page Electronic Record (*ER*) attached to this case, at 37). She told the DLT adjudicator who interviewed her by telephone that she quit because, on August 17, 2023, she was accused of letting her class out fifteen minutes early. *See* "Claimant Statement" section of DLT Form 480 (*ER* at 37). Then, on August 22, 2023, after having a panic attack on the way to work, she quit — because she "… did not want to get confrontational or blow up at anybody." *Id*. Conversely, the Employer did not respond to the adjudicator's request for a statement. *See* "Employer Statement" section of DLT Form 480 (*ER* at 38).

Then, on September 26, 2023, the adjudicator, acting as a designee of the Director of the Department of Labor and Training, issued a Decision 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 35).

Ms. Clay filed an appeal. As a result, a telephonic hearing was scheduled before a Referee employed by the Board of Review on October 24,

2023. Claimant Clay was the sole participant, as no representatives of the employer called in. *Ref. Hr'g Tr.* at 1-2; *ER* at 7-8.[1]

The Referee questioned Ms. Clay, who said she had been with Lincoln Tech for nine years, first at their Brockton location, then the last five at their Lincoln, Rhode Island campus. *Ref. Hr'g Tr.* at 4-5. When asked, Ms. Clay identified her August 22, 2023, letter of resignation. *ER* at 32. She then explained that the events leading up to that day prompted her resignation. *Id.* at 6.

Claimant testified that on Thursday, August 17, 2022, she had been the victim of a false accusation that she had dismissed her class early. *Id.* at 6-7. In fact, only three students had left early, and they had been docked points for the class, in conformity with Lincoln Tech's rules. *Id.* at 7. But, prompted by something the Education Supervisor said to the Campus President, they both "stormed" into her classroom. *Id.* The President said that Claimant needed to do a better job managing her classroom and that "she was going to figure out what to do with me." *Id.* Later, Ms. Clay received an email from the Campus President stating that she needed to do an in-service training on classroom management. *Id.* at 6-7.

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[1] Had one or more done so, their role would likely have been limited pursuant to G.L. 1956 § 28-44-38(c), which denied standing to oppose benefits to employers who fail to provide information to the Department within ten days of receiving notice that the initial claim was filed. The Referee decided, in his decision, to deny standing to Lincoln Tech. *See Decision of Referee,* at 2.

Ms. Clay stated that she had taken Monday off to consider the matter and that on Tuesday she had a panic attack on the way to work. *Id.* She felt nervous walking in and felt like she was walking on eggshells the whole day there. *Id.* And so, after she finished her morning class, which ran from 8:00 to 12:45, she spoke to the Campus President, the Education Supervisor, and the Director of Education. *Id.*[2]

When asked by the Referee why she resigned instead of attending the in-service on class management, Ms. Clay told him that she had filed an official complaint with the corporate office, but nothing was done. *Id.* at 8-9. The Campus President was very much on the side of the Education Supervisor. *Id.* She had submitted a rebuttal to the written warnings she had received, and the Campus President dismissed her from the meeting and affirmed the written warning. *Id.* at 9.[3] In sum, Ms. Clay testified that she felt that "there was no

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[2] At this juncture in the hearing, Ms. Clay added that she had other concerns about the education supervisor, Melissa DiChiaro, who had been elevated to that position in (about) May. *Ref. Hr'g Tr.* at 8. Later in her testimony, Ms. Clay elaborated on Ms. DiChiaro's behavior toward her. She told her she could not wear a green casual shirt that she had been wearing for a long time. *Ref. Hr'g Tr.* at 10-11. And, she had forbidden Ms. Clay from shutting off the lights in her classroom while she cleaned it after the students left — which she did due to her history of migraines. *Id.* at 11.

[3] When the Referee pointed out that the actual warning was not in evidence, he asked Ms. Clay to recall its contents. *Id.* at 12. She responded — "I did read it, and honestly I can't remember what the ending was. I don't know if they were going to let me go, but it was that we had to work on classroom management and attentiveness to the classroom." *Id.*

turning back." *Id*. That it was "either this or get fired, and I've never been fired from a position." *Id*.

On October 25, 2023, the Referee issued his decision. The Referee's findings of fact regarding the leaving-for-good-cause issue read as follows:

> August 22, 2023 claimant submitted her immediate written resignation from her Lincoln Technical Institute medical assistant instructor position citing her disagreement with the way the school was now being managed. Claimant came under the supervision of a new supervisor May 2023. Following her early release of 3 of the 21 students she was scheduled for in-service training on class management. Claimant felt harassed and now working in a toxic environment.

Referee's Decision, at 1 (*ER* at 23). This finding led him to formulate certain conclusions on the good-cause issue:

> In order to show good cause for leaving employment, the claimant must show that the work had become unsuitable or that the claimant was left with no reasonable alternative but to resign. The burden of proof rests solely on the claimant. Insufficient testimony and no evidence have been provided to support either of the above conditions.
>
> The claimant's opinion that her new supervisor had "no experience" and was harassing her is without merit and unsupported by credible evidence. She points to her unanswered harassment filing following supervision. Whether the corporate office was investigating is unknown but the premature decision to resign does not support she explored all reasonable alternatives if it was her belief the job became unsuitable. Her response to new supervision was one of unacceptance.

Referee's Dec. at 2 (*ER* at 24). Based on this set of conclusions, the Referee affirmed the Decision of the Director regarding Claimant's disqualification pursuant to § 28-44-17. *Id.*

Thereafter, the Board of Review considered the matter based on the record assembled by the Referee, as it is permitted to do under G.L. 1956 § 28-44-47. *Bd. of Review Dec.* at 1; *ER* at 2. In a decision issued on December 5, 2023, the Board adopted the decision of the Referee as its own and found that the Referee's decision constituted a proper adjudication of the facts and the applicable law. *Id.*

II
Applicable Law
A
The Statute

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 she 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).[4]

The most recent § 28-44-17 case we shall review is *Rocky Hill School, Inc. v. Department of Labor and Training, Board 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

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[4] The Court employed the *Murphy* standard in *Powell v. Dep't of Emp. Sec., Bd. of Review,* 477 A.2d 93 (R.I. 1984), in which the Court reversed the Board of Review's decision (affirmed by the District Court) denying benefits to the claimant, a public relations person who resigned rather than issue a misleading press release, fearing it would damage his reputation in his field irretrievably. *Powell*, 477 A.2d 96-97.

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. Department of Social 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*

Department of Employment Security, 104 R.I. 503, 246 A.2d 213 (1968). Under the Rhode Island Supreme Court's construction of § 42-35-15(g), this Court must uphold a decision of the Board "… if it is supported by legally competent evidence." *Kyros v. Rhode Island Dep't of Health,* 253 A.3d 879, 884-85 (R.I. 2021) (quoting *Endoscopy Associates, Inc. v. Rhode Island Dep't of Health,* 183 A.3d 528, 532 (R.I. 2018)).

In evaluating specific circumstances which might constitute "good cause" to quit, the Court confronts a mixed question of law and fact. *D'Ambra v. Board of Review, Department of Employment 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. But, if more than one reasonable conclusion could be reached, the agency decision must be affirmed. *Id*.

The Supreme Court of Rhode Island recognized in *Harraka, ante,* 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

When she perfected her appeal, Ms. Clay stated that she had to leave her position at Lincoln Tech "because mentally I was unable to complete my duties." *See Appeal Form,* December 20, 2023, at 2. She added that, if she had stayed, "there was a possibility" that she would have been terminated. *Id*.[5] Certainly, these are the same themes that were touched upon by Ms. Clay in her presentation to the Referee.

However, as stated in Part III of this opinion, this Court's authority to set aside the factual findings of the Board is extremely limited; we must affirm so long as the administrative decision is supported by competent evidence of record. *See Kyros, supra.* And so, the question before us may be distilled to this — did the Board of Review err in finding (by adopting the Decision of the

[5] Although it was not raised as an issue below, it is perhaps worth noting that, although Ms. Clay expressed concern that she might be heading toward an ultimate discharge, her resignation does not fall within the ambit of our Supreme Court's opinion in *Kane v. Women and Infants Hospital of Rhode Island,* 592 A.2d 137, 139-40 (R.I. 1991) (holding that claimants for unemployment benefits do not resign voluntarily when they quit in the face of an immediate discharge for misconduct). In such cases, the claimants' eligibility for benefits will turn on whether they were discharged for proved misconduct pursuant to G.L. 1956 § 18-44-18. *Id.*

Referee as its own) that Ms. Clay had not sustained her burden of proving that she left the employ of Lincoln Tech for good cause? I do not believe that this Court is able to find that this ruling did constitute error.

Of course, Ms. Clay did offer competent, uncontradicted testimony about the manner of her treatment by her new supervisor, which, in Claimant's view, constituted harassment. Indeed, she spoke about being told not to wear a certain blouse and not to turn all the lights off when she was tidying her classroom after the students had left. *See supra* at 4, n.2. But the Board found that these actions, which it did not deny occurred, *did not* constitute harassment sufficient to justify her *immediate* resignation — and they were not such as would make her position unsuitable. And so, it found her separation to have been made *prematurely*.

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 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 and is not clearly erroneous or otherwise unlawful.

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

June 20, 2024