

**STATE OF RHODE ISLAND
PROVIDENCE, Sc.**

**DISTRICT COURT
SIXTH DIVISION**

LAURIE BEAUREGARD

v.

A.A. No. 6AA-2023-00014

DEPT. OF LABOR AND TRAINING,
BOARD OF REVIEW

JUDGMENT

This matter came before Caruolo J. on Administrative Appeal, and upon review of the record and a decision having been rendered, it is

ORDERED AND ADJUDGED,

that the decision of the Board of Review is AFFIRMED.

Dated at Providence, Rhode Island, on this 23rd day of September, 2025.

Enter:

By Order:

_____/s/_____

_____/s/_____

STATE OF RHODE ISLAND
PROVIDENCE, Sc.

DISTRICT COURT
SIXTH DIVISION

LAURIE BEAREGARD
Appellant,

v.

DEPARTMENT OF LABOR AND
TRAINING BOARD OF REVIEW
Appellee.

A.A. No. 6AA-2023-00014

DECISION

Caruolo, J.: Appellant Laurie Beauregard (“Appellant” or “Beauregard”) has filed this appeal challenging Appellee Department of Labor and Training Board of Review’s (“Appellee or “the BOR”) February 7, 2023 decision in this matter. Appellant asks this Court to vacate the Referee and Board of Review’s decisions because, in her view, there is no competent evidence in the record to determine that she acted with the type of moral culpability that is needed to establish fault under G.L. 1956 § 22-42-68.

The Court has jurisdiction pursuant to R.I.G.L. § 28-44-52. For the reasons stated below, the BOR’s decision is **AFFIRMED**.

PROCEDURAL HISTORY AND FACTS

A. Factual Background

Appellant is a per diem RDS Sonographer, who at all relevant times, was working for Prospect Chartercare. (R. at 51, 55.) Appellant testified that she worked for this employer for approximately five years, on and off. *Id.* at 40. Appellant testified that her base rate of pay is \$41.25, and that she is paid a differential rate for work taking place during second or third shift. *Id.* at 37. Appellant testified that the differential is \$2.00 or \$3.00 more than her base rate for second shift, and \$3.00 or \$4.00 more than her base rate for third shift. *Id.* Appellant also testified that when she is called out to a hospital, meaning that she has to travel to the hospital, she is paid time and a half, for a four hour period. *Id.* at 33, 36. She testified that if she is called to the hospital multiple times within a four hour period, she will be paid only once. *Id.* at 35-36. Appellant testified that she is paid bi-weekly. *Id.* at 34.

From January 2022 through March 2022, Appellant filed for unemployment benefits. *Id.* at 60. Aside from the week of January 15, 2022, Appellant incorrectly reported her earnings throughout that time period¹. *Id.* As a result, Appellant was

¹ On January 8, 2022, Appellant reported her income as \$656.00, her actual income was \$721.00. (R. at 65, 67). On January 22, 2022, Appellant reported her income as \$328.00, her actual income was \$394.00. *Id.* On January 29, 2022, Appellant reported her income as \$492, her actual income was \$829.00. *Id.* On February 5, 2022, Appellant reported her income as \$328.00, her actual income was \$378.00. *Id.* On February 12, 2022, Appellant reported her income as \$553.00, her actual income

overpaid in the amount of \$1,374.00 plus \$6.78 in interest. *Id.* Appellant testified that she did not have access to know what each week's exact compensation was, and that she chose not to ask her employer for a precise breakdown. *Id.* at 34. Regarding the misreporting of wages, Appellant testified "So, I may have made mistakes, but they weren't intentional, and I really had no way to call my boss every week to figure it out with her." *Id.* at 39. Appellant continued "I mean she is super busy running a hospital, so I am sorry if I make mistakes, but it wasn't intentional." *Id.* at 39-40.

B. Procedural History

On September 21, 2022 ², a statement from Appellant was entered into Appellee's system. *Id.* at 64. "I really tried my best I could to be accurate but there's a good chance I may have made some mistakes here & there. I understand that I will have an overpayment to return to the state." *Id.* On October 5, 2022, Appellant took part in an adjudication phone call for the dispute. *Id.* at 12. Appellant testified that during that call, she was given "the impression that I was all set, that it was

was \$654.00. *Id.* On February 19, 2022, Appellant reported her income as \$513.00, her actual income was \$550.00. *Id.* at 65, 68. On February 26, 2022, Appellant reported her income as \$332.00, her actual income was \$349.00. *Id.* On March 5, 2022, Appellant reported her income as \$512.00, her actual income was \$976.00. *Id.* On March 12, 2022, Appellant reported her income as \$307.00, her actual income was \$352.00. *Id.* On March 19, 2022, Appellant reported her income as \$307.00, her actual income was \$328.00. *Id.* On March 26, 2022, Appellant reported her income as \$430.00, her actual income was \$610.00. *Id.*

² The record indicates that the statement was changed on October 6, 2022.

understood that it was a mistake.” *Id.* at 16. Appellant further testified that she did not believe that she owed any money at that point. *Id.*

On October 7, 2022, an authorized representative of the Director of the Department of Labor and Training issued a decision determining that Appellant had been overpaid benefits in the amount of \$1,374.00, plus interest in the amount of \$6.78. *Id.* at 60-62. That decision also determined that Appellant was at fault for the overpayment because she misrepresented her gross earnings when using the Tele-Cert payment system. *Id.* at 61. Appellant testified that she never received this decision, which led to her filing a late appeal on November 10, 2022. *Id.* at 19-20, 58. On December 19, 2022, a hearing on the late appeal was held by Referee Gunter Vukic (the “Referee”). *Id.* at 6. The Referee mailed his decision to the parties on December 20, 2022. *Id.* at 51. The decision determined that the late appeal would be allowed. *Id.* at 52.

On the merits, the Referee’s decision found that Appellant was provided with appropriate instructions regarding reporting and chose to ignore those instructions. *Id.* at 53. The decision also determined that Appellant failed to make the appropriate calculations during her weekly wage certifications. *Id.* Specifically, the Referee determined that Appellant certified to the accuracy each week, despite making no effort to provide accurate information. *Id.* The Referee determined that claimant was at fault, and that it would not defeat the purpose of the Act to require restitution. *Id.*

The Referee determined that Appellant had ample time to correct her misreporting, but that she failed to do so. *Id.* The decision concluded by stating that Appellant was subject to make restitution and pay interest according to § 28-42-68. *Id.* at 54.

C. Board's Decision

On January 3, 2023, Appellant appealed the Referee's decision to the BOR. *Id.* at 2. On February 7, 2023, the BOR adopted and affirmed the Referee's decision. *Id.* On February 15, 2023, Appellant filed this administrative appeal. *See* Docket. On September 25, 2023, Appellant filed her memorandum in support of her appeal. *Id.* On November 3, 2023, the BOR filed its Memorandum in opposition of Appellant's appeal. *Id.*

APPELLANT'S MEMORANDUM

Appellant argues that, because there are multiple variables that must be considered to properly calculate her wages, including pay differentials and varying hours, she is not at fault for the overpayment. (Appellant Mem. 3.) Specifically, Appellant argues that the referee's determination that she made no effort to provide accurate information is not supported by the testimony in the record. *Id.* Appellant additionally argues that the standard for fault requires some degree of moral responsibility, indifference or neglect of one's duty to do what is right. *Id.* 5. Appellant argues that there is a lack of testimony in the record to support the Referee's decision that she acted with the type of moral responsibility necessary for

a finding of fault. *Id.* Finally, Appellant argues that the referee's determination that Appellant was "...at fault, and it would not defeat the purpose of the Act to require restitution" was erroneous and warrants reversal. *Id.*

APPELLEE'S MEMORANDUM

The BOR argues that there is sufficient testimony within the record to support the Referee's finding that she did not accurately report her wages. (BOR Mem. 4.) The BOR additionally argues that Appellant did not take action to correct the errors she made in reporting, or to otherwise reconcile her reporting. *Id.* 5. The BOR argues that Appellant's conduct, at a minimum, demonstrates an indifference or neglect of one's duty to do what is right. *Id.* The BOR concludes by arguing that the evidence presented fully supports the BOR's finding of fault and order of repayment. *Id.*

APPLICABLE LAW

General Laws 1956 § 28-44-7 provides the following as it pertains to partial unemployment benefits:

"For weeks beginning on or after July 1, 1983, an individual partially unemployed and eligible in any week shall be paid sufficient benefits with respect to that week, so that the individual's week's wages, rounded to the next higher multiple of one dollar (\$1.00), as defined in § 28-42-3(26), and the individual's benefits combined will equal in amount the weekly benefit rate to which the individual would be entitled if totally unemployed in that week." Section 28-44-7.

Additionally, the Rhode Island legislature has provided the following in pertinent part as it pertains to recovery of an overpayment:

“(a) Any individual who, by reason of a mistake or misrepresentation made by himself, herself, or another, has received any sum as benefits under chapters 42 -- 44 of this title, in any week in which any condition for the receipt of the benefits imposed by those chapters was not fulfilled by him or her, or with respect to any week in which he or she was disqualified from receiving those benefits. . . shall be liable to repay to the director for the employment security fund a sum equal to the amount so received. . .

“(d) There shall be no recovery of payments from any person who, in the judgment of the director, is without fault on his or her part and where, in the judgment of the director, that recovery would defeat the purpose of chapters 42 -- 44 of this title.” Section 28-42-68.

In past decisions on this topic, this Court has stated that fault “. . . implies a moral responsibility for the erroneous payments in some degree.” *James Branca v. Department of Labor and Training Board of Review*, C.A. No. 6AA-2012-00185 at 7, Ippolito, M. (Oct. 25, 2012.) In *Branca*, the Court described fault as amounting to “at least indifference or a neglect of one’s duty to do what is right. . . .” *Id.* at 7-8.

STANDARD OF REVIEW

When reviewing the decision of an administrative agency, the Court “sits as an appellate court with a limited scope of review.” *Mine Safety Appliances Co. v. Berry*, 620 A.2d 1255, 1259 (R.I. 1993). The Court’s review is governed by the

Rhode Island Administrative Procedures Act (APA) § 42-35-1.1, et seq. In pertinent part, Section 42-35-15(g) of the APA provides:

“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.” Section 42-35-15(g).

“In essence, if ‘competent evidence exists in the record, the Court is required to uphold the agency’s conclusions.’” *Auto Body Association of R.I. v. State of R.I. Department of Business Regulation*, 996 A.2d 91, 95 (R.I. 2010) (quoting *R.I. Public Telecommunications Authority v. R.I. State Labor Relations Board*, 650 A.2d 479, 484 (R.I. 1994)). When reviewing a decision under the APA, the Court may not substitute its judgment for that of the agency on questions of fact. See *Johnston Ambulatory Surgical Associates, Ltd. v. Nolan*, 755 A.2d 799, 805 (R.I. 2000). The Court defers to the administrative agency’s factual determinations provided that they are supported by legally competent evidence. See *Arnold v. R.I. Department of Labor and Training Board of Review*, 822 A.2d 164, 167 (R.I. 2003). The Court cannot

“weigh the evidence [or] pass upon the credibility of witnesses [or] substitute its findings of fact for those made at the administrative level.” *E. Grossman & Sons, Inc. v. Rocha*, 373 A.2d 496, 500 (1977).

Accordingly, the Court will “reverse factual conclusions of administrative agencies only when they are totally devoid of competent evidentiary support in the record.” *Baker v. Department of Employment Training Board of Review*, 637 A.2d 360, 363 (R.I. 1994) (quoting *Milardo v. Coastal Resources Management Council of Rhode Island et al.*, 434 A.2d 266, 272 (R.I. 1981)). The findings of the agency should be upheld even if a reasonable mind might have reached a contrary result. *See D’Ambra v. Board of Review, Department of Employment Security*, 517 A.2d 1039, 1041 (R.I. 1986).

The Court is free to conduct a *de novo* review of determinations of law made by an agency. *See Arnold*, 822 A.2d at 167 (citing *Johnston Ambulatory Surgical Associates, Ltd.*, 755 A.2d at 805). Thus, the Court is limited to the certified record in its determination as to whether legally competent evidence exists to support the agency’s decision. *Barrington School Committee v. R.I. State Labor Relations Board*, 608 A.2d 1126, 1138 (R.I. 1992). Legally competent or substantial evidence is “relevant evidence that a reasonable mind might accept as adequate to support a conclusion and means [an] amount more than a scintilla but less than a

preponderance.” *Caswell v. George Sherman Sand & Gravel Co., Inc.*, 424 A.2d 646, 647 (R.I. 1981).

DISCUSSION

The issue before this Court is whether there is competent evidence in the record to support a finding that Appellant was overpaid in the amount of \$1,374.00 plus \$6.78 in interest, and that Appellant was at fault for such overpayment.

A. Overpayment

The record in this case indicates that Appellant was overpaid in the amount of \$1,374.00, plus interest in the amount of \$6.78. (R. at 61, 66.) Appellant does not argue in her memorandum that the overpayment calculation was inaccurate. Instead, Appellant’s argument focuses on whether Appellant was at fault for the overpayment. (Appellant Mem. 3.) There is sufficient evidence within the record to support the Referee’s, and in turn the BOR’s determination that Appellant was overpaid benefits in the amount of \$1,374.00 plus \$6.78 in interest. There is no contradictory evidence on this point. The question then, is whether Appellant is at fault for the overpayment.

B. Fault

Appellant argues that she should not be required to make repayment because she is not at fault. (Appellant Mem. 5.) Appellant specifically argues that her failure to properly certify her wages does not arise to the level of fault necessary to require

repayment. *Id.* She bases this contention on her irregular payment schedule, as well as differing rates. *Id.* at 3. Appellant argues that there is no evidence within the record to support a finding of some degree of moral responsibility, indifference, or neglect of one's duty to do what is right. *Id.* at 5.

Appellant testified that she may have made mistakes as it pertains to the reporting of her wages. (R. at 39). This misreporting by Appellant was likely not an action born out of malice or done with an intent to defraud the State of Rhode Island. However, under the fault precedent that Appellant herself cites, this does not matter. There is sufficient evidence in the record to support the Referee's determination that Appellant failed to correct the wages that she had misreported. (R. at 53.) The Referee determined that Appellant failed to properly report her wages, despite being provided with the appropriate instructions. *Id.* The Referee also determined that she was provided with the appropriate instructions, and that she failed to follow those instructions. *Id.* Even if Appellant's failure to follow the instructions was inadvertent, such a failure could be characterized as indifference or neglect of one's duty to do what is right.

The Referee, and in turn, the BOR had before it the testimony of Appellant, as well as records from the Department of Labor and Training. The decisions made by both the Referee and the BOR were well supported by the evidence before it. Although Appellant emphasizes in her memorandum that she was doing her best,

that is immaterial under the facts of this case. *Id.* at 5. The assertion that she was trying her best has no bearing on whether she neglected her duty to properly report her wages. Appellant misreported her wages, and the evidence within the record indicates that Appellant's actions, and inactions were the cause of the misreporting. She had the ability to contact her boss to verify her reporting was correct, and she had the opportunity to correct the misreporting for fifteen weeks. She did not take advantage of either option. (R. 39-40, 52). Appellant's failure to take advantage of either option further supports the Referee's decision that Appellant was at fault for the overpayment.

The Referee's decision is well supported by the evidence within the record. This Court cannot determine that as a matter of law, the decision of the BOR was clearly erroneous or affected by clear error of law.

CONCLUSION

Based on a careful review of the record, this Court concludes that the BOR's decision is not clearly erroneous or affected by clear error of law. G.L. 1956 § 42-35-15(g)(3), (4). Further, it is also not clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; nor is it arbitrary or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion. Section 42-35-15(g)(5)(6).

Accordingly, the decision of the BOR is **AFFIRMED**.