

STATE OF RHODE ISLAND
PROVIDENCE, Sc.

DISTRICT COURT
SIXTH DIVISION

Zuleika Vargas

v.

Department of Labor and Training,
Board of Review and
Flik Lifestyles, LLC

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:
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A.A. No. 24-38

JUDGMENT

This cause came before O'Neill, J. on Administrative Appeal, and upon review of the record and memoranda of counsel, and a decision having been rendered, it is

ORDERED AND ADJUDGED

The decision of the Board is affirmed.

Dated at Providence, Rhode Island, this 15th day of September, 2026.

Enter:

By Order:

_____/s/_____

_____/s/_____

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

**DISTRICT COURT
SIXTH DIVISION**

Zuleika Vargas

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v.

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No. 6AA-2024-00038

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Department of Labor and Training,

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Board of Review and

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Flik Lifestyles, LLC

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DECISION

O'Neill, J. In this case, Appellant Zuleika Vargas filed the instant complaint for judicial review of a final decision of the Board of Review of the Department of Labor and Training, which denied employment security benefits. This matter has been referred to me pursuant to the jurisdiction set forth in G.L. 1956 § 28-44-52 for me to decide whether the Board of Review of the Department of Labor and Training's (the Board) denial of unemployment benefits was proper because Appellant left her employment without good cause within the meaning of G.L. 1956 §28-44-17. For the reasons I shall set forth in this decision and employing the standard of review applicable to administrative appeals, I find that the decision of the Board of Review is supported by substantial evidence of record and was not affected by error of law; therefore the Board's decision is AFFIRMED.

I
FACTS AND TRAVEL OF THE CASE

A

The Claim and the Initial Decision of the Department

Ms. Zuleika Vargas “Appellant” was employed by Flik Lifestyles, LLC (Company) for approximately ten (10) years as a food service director. *Decision of Referee* page 1. Appellant, previous to her leaving employment at FLIK Lifestyles LLC, had been on an approved medical leave from May of 2023 through November 5, 2023. *Id.* Appellant’s employment at the company required her to work onsite and did not allow her to work remotely. *Id.* Before Appellant returned to work on November 6, 2023 she had requested the possibility of a transfer from employment within FLIK in Rhode Island to employment in New York, where Appellant indicated that she was planning on relocating. *Id.* The Company informed her that she would have to apply for any openings in New York within the company and the company suggested that the company would assist her with the transfer of her job to New York if she was offered a position within the company in New York. *Id.* Appellant also asked that she be able to work remotely upon returning to work on November 6, 2023 and although the position she held required her to work onsite, it was agreed upon that Appellant would be allowed to work a hybrid schedule for a specific period through December 8, 2023, which was later extended to December 29, 2023. *Id.* Appellant in this time period applied for two positions within the company that were based in New York, however she was not offered either position. *Id.* On December 29, 2023, Appellant was informed that she was required to return to work onsite per the parties’ previous agreement. *Id.* Appellant informed the company that she was unable to return to work in person. *Id.* There is a dispute as to whether Appellant had already relocated to New York on or about December 29, 2023. However, it is clear that Appellant was separated from the company on December 30, 2023. *Id.* Employer believed that Claimant simply did not want to come back to work onsite, as was the agreement between Claimant and Employer, while Claimant believed that she was terminated from the company. The

Director of the Department of Labor and Training determined that the Claimant left her employment due to medical reasons and that Claimant did not provide sufficient evidence of a doctor's recommendation that Claimant not return to work. *Decision of Director* dated February 20, 2024 at page 1. The Director decided that Claimant left her employment without good cause which would have allowed her to collect unemployment pursuant to G.L. 1956 § 28-44-17 and the director consequently denied unemployment benefits to Ms. Vargas. *Id.* Claimant appealed the Director's decision to a Referee and a hearing which was conducted on March 13, 2024. Present telephonically for the hearing before the Referee were: Claimant Zuleika Vargas; Claimant's counsel, Margaret Hathaway; Andrew Lavallo who was the Regional Director of Operations for Flik Lifestyles, LLC. The Referee reviewed the evidence that had been submitted and heard testimony from Claimant and from Mr. Lavallo. The Referee issued a decision affirming the decision of the Director and found that Claimant left her employment for personal reasons and left voluntarily and did not leave with good cause within the meaning of G.L. 1956 § 28-44-17. *Decision of Referee* at page 3. Claimant then appealed the decision of the Referee on March 25, 2024 and the Board of Review in a brief decision affirmed the Referee's findings on May 2, 2024. Claimant then appealed the matter on or about May 13, 2024 to the District Court pursuant to G.L. 1956 § 42-35-15 and G.L. 1956 § 28-44-52.

II

STANDARD OF REVIEW

The standard of review by which this Court must consider appeals from the Board of Review is provided by G.L. 1956 § 42-35-15(g), a section of the 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.

As a result, 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."¹ The Court will not substitute its judgment for that of the Board as to the weight of the evidence on questions of fact.² In other words, the findings of the agency will be upheld even though a reasonable mind might have reached a contrary result.³

The Supreme Court of Rhode Island recognized in Harraka v. Board of Review of Department of Employment Security, 98 R.I. 197, 200, 200 A.2d 595, 597 (1964) that the Employment Security Act shall be interpreted liberally and stated:

...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 on the unemployed worker and his or her 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.

¹ 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).

² Cahoone v. Board of Review of the Department of Employment Security, 104 R.I. 503, 506, 246 A.2d 213 (1968).

³ Id.

III APPLICABLE LAW

A

The Statute

My review of this case involves the application and interpretation of the following provision of the Rhode Island Employment Security Act, which addresses the issue of voluntary leaving employment without good cause. The relevant statute, G.L. 1956 § 28-44-17 states:

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.

Pursuant to the language of this statute, we see that eligibility for unemployment benefits under § 28-44-17 has three prerequisites. First, that the claimant left his or her prior employment. Second, that the resignation was voluntary. Third, that the claimant left the position for good cause.

B

The Element of “Good Cause”---the Case Law

The Rhode Island Supreme Court has previously addressed the issue of “good cause” as that term is used in § 28-44-17, and I will review some cases that address the issues presented in this appeal. In *Harraka v. Board of Review of Department of Employment Security*, 98 R.I. 197, 200 A.2d 595 (1964) the Court rejected the reasoning of the Board of Review 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. Years later, the RI Supreme Court issued an opinion that addressed the issue of good cause in *Cahoone v. Board of Review of the Department of Employment Security*, 104 R.I. 503, 246 A.2d 213 (1968). In this case, the Court upheld the Board of Review’s

denial of benefits to Mr. Cahoone because the Board ruled that Cahoone did not leave his employment for job unsuitability, but rather that he was assigned to one position rather than another position. *Cahoone*, 104 R.I. at 505-506, 246 A.2d at 214.

In *Murphy v. Fascio*, 115 R.I. 33, 340 A.2d 137 (1975), the RI Supreme Court ruled on a case where the Appellant Murphy filed for unemployment after she married and decided to relocate to another state with her husband. *Murphy*, 115 R.I. at 34, 340 A.2d at 138. The Court made clear 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.” *Id.* at 139 (citing G.L. 1956 § 28-42-2). In *Murphy*, the Court was asked to decide whether leaving employment for a marriage that required a move out of state constituted good cause to resign. *Id.* The Court laid out the intention of the Employment Security Act when it was highlighted in the decision 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.” *Id.*

IV

ANALYSIS

The issue presented in this case is whether the decision of the Board of Review to sustain the Referee’s ruling of the denial of awarding unemployment benefits to the Claimant was supported by reliable, probative and substantial evidence in the record or whether or not it was clearly erroneous or affected by error of law. Normally in employment benefits cases, the issue appears to be *why* a person left employment, however in this case it appears the question that is presented is *how* Appellant separated from the Company. Appellant argues that it was never her intention to resign from her position within Flik Lifestyles, LLC. and that she intended to continue to work for the company as she and the company tried to come to an agreement as to her work schedule. *Appellant’s Memorandum* at page 4. Appellant further argues that the communication between the parties in December of 2023 was not clear and it left both parties with a different understanding of what was being requested by Appellant and what the Company was

expecting of her and her return to work. *Id* at 5. The Company argues that there was no miscommunication about what the expectations of the parties was and the Company had already made accommodations for Appellant after a medical leave and allowed her to work a hybrid schedule as she reacclimated back to work when the position she was employed for was intended for full time in-person employment. *Board of Review Memorandum* at page 2.

The facts in this case are clear to me up until November 2023 and December 2023 when the two parties in this case were attempting to discuss Appellant's return to work. Prior to that it is clear that Appellant was on an approved medical leave from May 2023 to November 6, 2023. *Decision of Referee* at page 1. It is also clear that Appellant was given the option temporarily to work a hybrid schedule, which she did. It appears to me that Appellant was clear what she wanted and that was a transfer within the company to a location in New York and the company disclosed to her that a direct transfer was not possible and that she would have to apply for any openings in New York if she were to remain with the company. *Referee Hearing Transcript* at page 26. Appellant argues that it was never her intention to resign, however her actions or lack thereof showed otherwise. Appellant wanted or needed to move away from Rhode Island and the Company did what they could to assist Appellant in the short term with the hybrid schedule and furthermore directing Appellant on how to attempt to secure employment in New York. Appellant was already accommodated with a hybrid schedule which was then extended even further and as the date to return to work approached. Appellant argues that somehow "negotiations" as to her work schedule were still ongoing. The Company made it clear what the expectation was for the return to work and she failed to return to work and then claimed that expectations were unclear. It is my position that Appellant had no intention of going back to work full time in person in Rhode Island as her position required and that she voluntarily left her position and that leaving the position because she could not secure employment in another state does not establish "good cause" that would allow her to receive unemployment benefits.

CONCLUSION

This court is not authorized to substitute its judgment for that of the Board of Review on factual matters. See *G. L. 1956 §42-35-15(g)*. After carefully reviewing the record and travel of this case and all of the supporting evidence, I find that the Board of Review's decision, which upheld the decision of the Referee to not award Ms. Vargas unemployment benefits under G.L. § 28-44-17 of the Rhode Island Employment Security Act was not "clearly erroneous in view of the reliable, probative and substantial evidence on the whole record."⁴ I further find that the decision was not "arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion."⁵ Therefore the Decision of the Board denying Ms. Vargas's claim for unemployment benefits is AFFIRMED.

⁴ Gen Laws 1956 §42-35-15(g)(5)

⁵ Gen Laws 1956 §42-35-15(g)(6)