STATE OF RHODE ISLAND **DISTRICT COURT**
PROVIDENCE, Sc. **SIXTH DIVISION**

Mirian Perez	:	
	:	
v.	:	**A.A. No. 2024 - 054**
	:	
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 10th day of March, 2025.

Enter:

/s/
Jeanne E. LaFazia
Chief Judge

By Order:

/s/
Clerk

STATE OF RHODE ISLAND **PROVIDENCE, Sc.**		**DISTRICT COURT** **SIXTH DIVISION**
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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 Board) erred when it held that Ms. Mirian O. Perez (Claimant or Appellant) would be disqualified from receiving unemployment insurance benefits because she quit her prior position without good cause within the meaning of 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 ought to be AFFIRMED. I so recommend.

I

Facts and Travel of the Case

Claimant Mirian Perez was working for Pure Haven LLC as its Director of Operations until February 9, 2024, when she quit. *See* "Employment Data" section of DLT FORM 480 (which may be found in the 76-page Electronic Record (*ER*) attached to this case, at 62). She had worked for the firm for nine years. *Id*. She filed a claim for benefits on March 14, 2024, which was made effective on March 10, 2024. *See* "Claim Data" section of DLT FORM 480; *ER* at 62.

Claimant told the DLT adjudicator who interviewed her by telephone that she quit because of "child care issues." *See* "Claimant Statement" section of DLT FORM 480; *ER* at 62. She explained:

> … My autistic 4 year old son began a new program in mid December. The hours were 8:30-3:30 pm and my hours were 7:30-4 pm. I would have to either come in late or leave early, depending on my husband's work schedule. We did not have anyone else to assist us. My employer allowed me to be flexible with leaving early and coming late. They did not tell me that it was an issue, but it was still having an effect on my work. I felt that I was heading towards a danger zone where I would be fired with how behind I was getting on my work. I did not receive any warnings or write ups about my performance or any indication that I would be discharged. It was also bleeding over into my family life and really effecting my mental health. I was not recommended by a medical professional to leave the position. I was offered a leave of absence but I did not take it because I did not think it would solve anything. …

See "Claimant Statement" section of DLT Form 480; *ER* at 62.

The adjudicator also spoke to a representative of the Employer, but she knew little of the matter and specifically denied any knowledge of Ms. Perez's reason for quitting. *See* "Employer Statement" section of DLT Form 480; *ER* at 63.

Given the amount of information contained in Claimant's statement, let us synopsize it here —

Ms. Perez stated that her son's new schedule forced her to be late for work or to leave early; that her Employer accommodated her in this regard; that they did not raise it as an issue; neither did she receive any warnings about her work-schedule; nor was she threatened with termination; she felt that these matters were affecting her work and her family life; and she feared that ultimately she would be terminated; finally, she stated that the demands placed upon her were affecting her mental health, though she was not recommended to quit by a medical professional.

Then, on March 29, 2024, the adjudicator, acting as a designee of the Director of the Department of Labor and Training, issued a Decision regarding her claim. *See Dec. of Director,* at 1; *ER* at 73. The adjudicator found that Ms. Perez quit her position due to child care issues, notwithstanding the fact that her employer "allowed for schedule flexibility and had not issued any warnings on [her] work performance." *Id*. In light of these facts, the adjudicator found that her resignation was without good cause, as defined in G.L. 1956 § 28-44-17, because there was no evidence that her job was unsuitable. *Id*.

Ms. Perez filed an appeal. As a result, a telephonic hearing was scheduled before a Referee employed by the Board of Review on May 7, 2024. *Ref. Hr'g Tr.* at 1. Claimant Perez appeared without counsel; the Employer was represented by its Controller, Mr. Donald C. Weymer, Jr. *Ref. Hr'g Tr.* at 1, 8-9.[1] After the witnesses were sworn and the contents of the file were enumerated, the Referee began to question Ms. Perez. *Id.* at 12 *et seq.* And, after a few preliminary questions, she asked her why she resigned. *Id.* at 12-13.

Claimant stated that in October of 2022 she attained the position of Director of Operations, which required her to oversee a manufacturing facility in Johnston, while still having responsibility for events. *Id.* at 13-14. She suffered stress from having to drop off her disabled child at daycare and then to head over to Rhode Island; and later having to make the return trip. *Id.* at 14. She noted that working an abbreviated schedule affected the quality of her work. *Id.* at 15. She would have telephone meetings while she was in the car and not able to take notes; consequently, she would forget things. *Id.* She felt a "heavy burden." *Id.* She testified that —

> … it just came to a head for me where I felt if something is going to happen here, either I am going to lose my job, and I am going to be fired, or I am going to get mentally sick because it was just the stress level it just increased so much, and Pure Haven being such a small company and having a small team, everyone there has to wear many

[1] The 31-page hearing transcript may be found in the electronic record of the case, beginning on page 13.

> many hats, and managing a facility wasn't just sitting in an office and telling people what to do, it's actually, you know, being hands-on wherever the job is needed … .

Ref. Hr'g Tr. at 15-16. She further described herself as being at wit's end and being "always stressed out." *Id.* at 16-17. In answer to a specific question posed by the Referee, Claimant stated she never asked the company for any kind of "reasonable accommodation," but she did explain to them that she had a lot "on her plate." *Id.* at 18. And she did not see relief coming because it was a small company with a small team. *Id.*

Ms. Perez did not inquire whether there were other, less stressful positions available in the company. *Id.* at 19. Nor did she explore the availability of a leave of absence. *Id.* at 20. And when she was asked by the Referee to explain why she did not seek a new position before resigning from Pure Haven, she responded:

> Well, by the time I made the decision I was at my wit's end. So, it wasn't anything like I am planning to do this at a certain time, so let me find a job before I do that. I literally was at my wit's end. If I didn't do that, I would have ended up in a mental hospital because it was just like, it was too much.

Id. at 19-20. But she conceded that she was not told by a medical professional that she needed to leave the job. *Id.* at 20.

When Claimant was asked by the Employer Representative whether she was ever (1) subjected to disciplinary actions by Pure Haven or (2) given poor performance evaluations, she answered no to each. *Id.* at 20-21. But she

agreed that the company had offered her work as a consultant after she quit. *Ref. Hr'g Tr.* at 21.

At this juncture the Referee began to pose questions to Mr. Weymer. *Id.* After some preliminary questions, she asked him what reasons Ms. Perez had given to the company for her departure. *Id.* The witness said it was consistent with her testimony — that she could not do the job and had chosen to leave. *Id.* He confirmed that she had not chosen any sort of "reasonable accommodation." *Id.* at 22. But he added that the company was very flexible with its employees generally and with Mirian in particular; she was permitted to leave early and come in late — and they would have granted her further accommodations if she had requested them. *Id.* The witness also insisted that work was still available to Claimant when she resigned. *Id.* at 23.

On May 8, 2024, the Referee issued his decision. The Referee's findings of fact regarding the leaving-for-good-cause issue read as follows:

> The claimant worked for Pure Haven LLC as a full-time director of operations. She last worked on February 9, 2024. She was separated as of this same day. The claimant provided a three week notice of resignation. The claimant worked as a director of events and was working remotely until about one and a half years ago. She was given the position of director of operations and was required to come into the office. The claimant has a son who is autistic, and he was placed in a development center. The hours were 8:30am to 3:30pm, therefore the claimant would need to drop off and pick up her son. The claimant's employer offered the claimant flexibility and indicated that they would have been willing to accommodate her schedule however the claimant felt that she was unable to perform her job duties while caring for the needs of her son and

> believed that her employer was no longer a good fit. Although, she indicated that she was not fulfilling her job duties her employer indicated that she was not under the threat of discharge nor was she on any warnings. Her employer was willing to continue to accommodate her needs if requested. Continuing work was available.

Dec. of Referee, at 1 (*ER* at 8). This finding led him to formulate certain conclusions on the good-cause issue:

> In order to show good cause for leaving her job, the claimant must show the work had become unsuitable or that she was faced with a situation which left her with no reasonable alternative but to terminate her employment. The burden of proof rests solely on the claimant.
>
> Insufficient testimony and evidence have been provided to support that either of these situations existed at the time the claimant made the decision to leave her job. The claimant left this position due to personal reasons and failed to show that a situation existed which left her with no reasonable alternative then to place herself in a state of total unemployment. Additionally, she took no action to secure other employment prior to leaving this position. The claimant's leaving is considered to be without good cause under the above Section of the Act. Therefore, she must be denied benefits in this matter.

Dec. of Referee, at 3; *ER* at 10. 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, Claimant Perez appealed to the full Board of Review, which 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 June 7, 2024, 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

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 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. Board of Review of the Dep't of Emp't 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 Assoc's, Inc. v. R. I. 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. Bd. of Review, Department of Employment Sec.,* 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 v. Board of Review of Department of Employment 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.

III
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 his 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. Board of Review of Department of Employment Security,* 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 Review of the Department of Employment Security,* 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. 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 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 Court employed the *Murphy* standard in *Powell v. Department of Employment Security, 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.

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.

IV
Analysis
A
Positions of the Parties
1
The Position of the Claimant-Appellant

In the Memorandum she filed in support of her appeal, Appellant Perez argues that Claimant was privileged to quit *and* collect benefits because she had a child under 18, a disabled child under 18, who required care. *Appellant's Mem.* at 5 (citing § 28-44-17(a)(3)(i) and § 28-44-17(a)(3)(iii)). She states that "[a] primary caregiver parent's need to provide for a disabled child's care needs has long been considered good cause to resign from a position in certain circumstances. *Appellant's Mem.* at 5-6 (citing *Huntley v. Department of Employment Security,* 121 R.I. 284, 285, 397 A.2d 902 (1979), a case in which caring for a disabled child was found to be a valid reason to limit one's availability for work under G.L. 1956 § 28-44-12).

Claimant also urges that the Referee failed in her duty to inquire into relevant issues, particularly, the child-care responsibilities under which she labored. *Appellant's Mem.* at 6-7. She also specifies issues about the demands of her position that were not fully developed. *Id.* at 7. Ultimately, she

states that she could not complete all the work within the ambit of her position and asserts that her position was therefore unsuitable. *Id.*

2

The Position of the Board of Review

The Board of Review begins its Memorandum by reminding us that decisions of the Board of Review are upheld on factual issues so long as the Board's findings are supported by competent evidence of record. *Appellee's Mem.* at 4 (citing *Martha Mooney v. Department of Labor and Training, Board of Review,* A.A. No. 2017-64 (Dist.Ct. 10/25/2018)). Then, after quoting from § 28-44-17, it argues, under its first heading, that Claimant failed to prove that her position had become unsuitable and that her resignation involved a substantial degree of compulsion. *Appellee's Mem.* at 5 (citing *Harraka, supra* and *Cahoone, supra* at 8). Nor, it argues, did she show that the circumstances of her employment were involuntary and "effectively beyond her control." *Id.* (quoting *Powell, supra* at 14, 477 A.2d at 96-97). The Board then asserts that Claimant left work for personal reasons, unrelated to her work. *Id.* at 6.

Under the *second* heading, the Board asserts that Claimant did not, before quitting, give her Employer an opportunity to alleviate her difficulties. *Id.* (citing *Bem v. Dep't of Labor and Training, Board of Review,* A.A. No. 14-433 (Dist.Ct. 3/19/2015)). In this regard, the Board points out that when she told the Employer she was leaving, they offered her an alternative placement. *Id.* at 7.

Finally, the Board argues that this Court must confine its review to the record of the proceedings before the Board. *Id*. at 7.

B

Discussion

When reviewing appeals from the Board of Review in cases wherein it has approved or rejected a claim for unemployment benefits, our review is very limited on factual issues; so long as the findings of the Board are supported by competent evidence of record, we must affirm those findings. But in this case the parties (that is, Claimant, her former Employer, and the Board of Review) do not dispute the circumstances which culminated in Ms. Perez's resignation from Pure Haven on February 9, 2024.

They acquiesced to Ms. Perez's assertions of verifiable objective fact: that she has a child who has special needs who requires much attention; that, as a consequence, she was unable to work a normal shift — she would either arrive late for work or leave early; and finally, they did not disagree with her testimony that the parental burdens she was carrying affected the quality of her work.[2] Neither did the Employer ask the Department and the Board to discredit the reasons Claimant gave for resigning — that the quality of her work was suffering, and that, as a result, she risked being fired. And finally, the Board did not question the sincerity of the reason she gave for quitting.

[2] These assertions were provided by Claimant Perez to the DLT adjudicator (see quotation, *supra* at 2) and to the Referee (see quotations, *supra* at 4-5).

And so, we next must consider whether these reasons, even if fully credited, provided Claimant Perez with good cause to quit; for the reasons I shall now state, I believe a finding of good cause under § 28-44-17 was not required by the competent facts of record and the applicable law; to the contrary, under the facts and the applicable law, the Board's finding that Claimant did not have good cause to quit under § 28-44-17 (and should therefore be disqualified) was indeed reasonable. Accordingly, the decision of the Board must be upheld.

Ms. Perez is correct when she says that the need to care for a child constitutes good cause to quit. In prior cases too numerous for citation, this Court has held that a quitting in order to care for a child (or children) does indeed constitute good cause within the meaning of section 17. *See Walker v. Department of Labor and Training, Board of Review,* A.A. No. 2013-14, slip op. at 8 (Dist.Ct. 4/12/2013) (citing *Flowers v. Department of Employment Security, Board of Review,* A.A. No. 83-292 (Dist.Ct. 4/29/88) (Wiley, J.)). But, this principle is not absolute; as a prerequisite to eligibility, the Court has required the employee to fully explore alternatives to quitting, such as requesting an accommodation — such as a change to his or her schedule, or, where appropriate, a leave of absence. *Walker*, *supra*, slip op. at 8-9 (citing *Estrella v. Department of Employment and Training, Board of Review,* A.A. No. 1994-111, slip op. at 6-7, (Dist.Ct. 11/22/94) (Cenerini, J.) (Disqualification affirmed, where claimant quit in order to care for child in Florida and where claimant

declined an offered leave of absence) and *Croteau v. Department of Employment Security Board of Review,* A.A. No. 1994-229, slip op. at 7, (Dist.Ct. 2/1/95) (DeRobbio, C.J.) (Disqualification of Claimant affirmed, where claimant was moved to 3rd shift causing child care problems but where claimant did not explore alternatives). In *Walker*, Claimant was deemed ineligible for unemployment benefits because, after her employer *temporarily* increased her hours of work in such a way as to interfere with her childcare responsibilities, she failed to avail herself of her manager's offer to discuss revising the new schedule. *Walker*, slip op. at 10-12.

In any event, there is nothing in the record indicating Claimant's child needed his mother's full-time, at-home care. Her child was in school. The employer was accommodating her schedule completely. It does not appear from the record that they rejected any request she made. Their witness indicated that they were willing to grant her further accommodations. Thus, it is not clear (from this record) why she could not have continued in her position at Pure Haven for a while longer.

Claimant's stated reason for leaving arose from a conscientiousness that is thoroughly admirable. She felt she was not doing the same quality of work that she had done previously. She believed that she would be disciplined and terminated. However, the record is clear that the Employer remained satisfied with the quality and quantity of her work and the company was accommodating her need to maintain a flexible work schedule.

As a result, Claimant did not need to leave precipitously; she could have stayed and, if her doubts about her long term the position persisted, used the intervening period to seek a new, less demanding, position. In this way, Ms. Perez could have avoided assuming the status of an unemployed individual. Thus, her position was not, at least as of early February of 2024, not unsuitable

V
Conclusion

Pursuant to G.L. 1956 § 42-35-15(g), the decision of the Board of Review must be upheld unless it was, *inter alia,* contrary to law, clearly erroneous in light of the reliable, probative, and substantial evidence of record, or arbitrary or capricious. This Court must affirm the Board's decision unless the facts found by the Board *must* lead to the conclusion that Ms. Perez quit for good cause. After a careful review of the record below, I cannot say that such a finding was required. I must therefore recommend that the Decision of the Board denying Ms. Perez's claim for benefits be AFFIRMED.

/s/
Joseph P. Ippolito
MAGISTRATE

March 10, 2025