

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

DISTRICT COURT
SIXTH DIVISION

DONNA M. MANDEVILLE
Appellant/ Employee

:
:

VS.

: AA No. 14-6-0009

DEPARTMENT OF LABOR AND
TRAINING, BOARD OF REVIEW,
(WEST WARWICK SCHOOL DEPARTMENT),
Appellee/ Employer

:
:
:

JUDGMENT

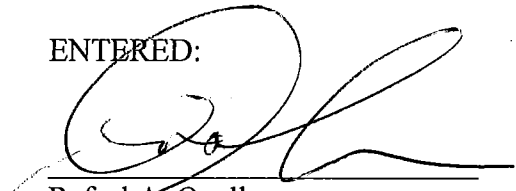
This matter is before the Court on appeal from the Department of Labor and Training, Board of Review and, upon review of the record in its totality, a decision having been rendered, it is hereby,

ORDERED, ADJUDGED AND DECREED:

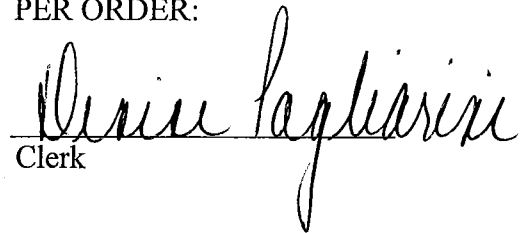
That the decision of the Board of Review is supported by the whole record and is a proper disposition of the facts and laws applicable thereto, and is therefore hereby affirmed.

Entered as an Order of this Court at Kent, Rhode Island on this 16th day of June 2015.

ENTERED:


Rafael A. Ovalles,
Associate Judge

PER ORDER:


Clerk

Dated: 16 June, A. D., 2015

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

DISTRICT COURT
SIXTH DIVISION

DONNA M. MANDEVILLE
Appellant/ Employee

VS.

:
: A.A. No. 14-6-0009

DEPARTMENT OF LABOR AND :
TRAINING, BOARD OF REVIEW, :
(WEST WARWICK SCHOOL DEPARTMENT), :
Employer/ Appellee :

DECISION

OVALLES, J. This matter is before the Court on appeal, pursuant to R. I. General Laws § 42-35-15, by Appellant/ Employee, who left her employment upon receiving a teaching position offered by the City of Providence School Department. The Director of the Department of Labor and Training found that Appellant’s departure was voluntary, without good cause, and consequently, denied employment security benefits, pursuant to R. I. General Laws § 28-44-17. After a hearing, a Referee ruled against the Appellant. The Board of Review affirmed the Referee’s decision.

On appeal, Appellant contends that the Decision of the Board of Review was erroneous and should be reversed, since she left her job with cause, because she was offered a teaching position with the City of Providence School Department. For the reasons that follow, the Decision of the Board of Review is affirmed.

FACTS AND PROCEDURAL HISTORY

Donna M. Mandeville (hereinafter Appellant and/ or Employee) was employed by the West Warwick School Department (hereinafter Appellee and/ or Employer).

Appellant last worked on June 20, 2013. (Referee’s Hearing, p. 7). The Director of the Department of Labor and Training ruled that the Employee voluntarily quit her job, without good cause, pursuant to R. I. G. L. § 28-44-17. In August 2013, the Employee confirmed that she “had obtained another [teaching] position with the Providence School Department to begin in September 2013[,] and, therefore, was quitting her position and was providing her resignation.” (Referee’s Hearing, p. 8, Lines 10-12, 14-15). The Director found that the Employee’s departure was without good cause, and, the Employee did not provide sufficient evidence to prove that she had obtained a new teaching position with another school department.

The Referee found that the Employee left her teaching position voluntarily, without good cause; the Employee was found to be ineligible to receive employment security benefits pursuant to R. I. General Laws § 28-44-17.

The Employee appealed the Referee’s decision to the Board of Review. Based upon a review of the record, the Board of Review affirmed the Referee’s decision. (Board of Review’s Decision, p. 1).

APPLICABLE RHODE ISLAND LAW

A. Standard of Review

The District Court has jurisdiction to hear appeals from the Board of Review pursuant to R. I. General Laws § 42-35-15(a). The District Court’s jurisdiction is limited, however, by R. I. General Laws § 42-35-15(g), which states in pertinent part:

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 [A]ppellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- 1.) In violation of the 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.

The District Court, therefore, lacks the authority to assess witnesses' credibility or to substitute its judgment for that of the Board of Review concerning the weight of the evidence on questions of fact. Link v. State, 633 A. 2d 1345 (R.I. 1993). The District Court is limited to a determination of whether the Board of Review's decision is supported by competent evidence. Marran v. State, 672 A. 2d 875 (R.I. 1996); Starlight Communications Holdings, Inc. v. R.I. Department of Labor and Training, 2007 R.I. Super. Lexis 15 (R.I. Superior Court 2007).

The District Court may reverse the decision of the Board of Review only where the decision "is clearly erroneous in light of the reliable, probative, and substantial evidence, or where it is arbitrary or capricious or that it is characterized as an abuse of discretion." Costa v. The Registry of Motor Vehicles, 543 A.2d 1307, 1309 (R.I. 1988); Donald Greco, et. al. v. Michael Tikoian, et. al., 2006 R.I. Super. Lexis 23 (R.I. Superior Court 2006). Substantial evidence is that which a reasonable mind might accept to support a conclusion. Newport Shipyard v. R.I. Commission for Human Rights, 484 A. 2d 893, 897 (R.I. 1984); Dominican Taxi, Inc. v. State of Rhode Island/ Division of Public Utilities Commission, 1999 R.I. Super. Lexis 43 (R.I. Superior Court 1999). However, questions of law are not binding upon a reviewing court and may be freely reviewed to

determine what the law is and its applicability to the facts. Dominican Taxi, Inc., 1999 R.I. Super. Lexis 43, @ p.3. Moreover, “the determination of what circumstances will constitute good cause [is] a question of law to be resolved by this court.” Murphy v. Fascio, 340 A. 2d 137, 139 (R.I. 1975); Powell v. Department of Employment Security, Board of Review, 477 A. 2d 93, 96 (R.I. 1984).

Ultimately, the District Court is not entitled to substitute its judgment for that of the Board of Review on questions of fact “even in a case in which the court might be inclined to view the evidence differently and draw inferences different from the Board.” Johnston Ambulance Surgical Associates, Inc. v. Nolan, 755 A. 2d 799, 805 (R.I. 2000).

B. Rhode Island Employment Security Act
Voluntary Leaving Without Good Cause

Rhode Island General Laws § 28-44-17 defines voluntary leaving without good cause and, states in pertinent part:

Voluntary Leaving Without Good Cause. – ... An individual who leaves work voluntarily without good cause shall be ineligible for waiting period credit or benefits for the weeks 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 a least eight (8) weeks of work, and in each of those eight (8) weeks has had earnings of at least twenty (20) times the minimum hourly wage defined in chapter 12 of this title for performing services in employment for one or more employers subject to chapters 42—44 of this title.

The Rhode Island Supreme Court addressed voluntary leaving with and/ or without good cause in Harraka v. Board of Review, 200 A. 2d 595 (R.I. 1964) and, Rocky Hill School, Inc. v. State of Rhode Island Department of Employment & Training, Board of Review, 668 A. 2d 1241 (R.I. 1995). In Harraka, the Supreme Court indicated that

eligibility for payments is not to be forfeited because termination of employment was voluntary but only, if being voluntary, it was without good cause. Harraka, 200 A. 2d @ p. 596. In order for an employee to be eligible to recover employment security benefits under R.I. General Laws § 28-44-17, an employee must leave work voluntarily and with good cause. Kane v. Womens & Infants Hospital, 592 A. 2d 137 (R.I. 1991). An employee has been deemed to leave for good cause when the employee is faced with sufficiently adverse circumstances that are beyond that employee's control. Powell v. Department of Employment Security, Board of Review, 477 A. 2d 93, 96- 97 (R.I. 1984); Kane v. Women & Infants Hospital, 592 A. 2d 137 (R.I. 1991); Rhode Island Temps, Inc. v. Department of Labor and Training, Board of review, 749 A. 2d 1121 (R.I. 2000).

Appellant/ Employee has the evidentiary burden to prove that his/ her voluntary departure from work was coupled with good cause. Rocky Hill School, Inc., 668 A. 2d 1241, 1242 (R.I. 1995). Absent a showing of legally acceptable good cause, the employee shall be disqualified from receiving employment security benefits. The issue in this case is whether or not the Employee left work voluntarily and with good cause within § 28-44-17 of the Rhode Island Employment Security Act.

DISCUSSION

In the instant case, Appellant/ Employee contends that she was wrongfully denied employment security benefits. In her appeal, Employee contends that she left her job with the West Warwick School Department, because the City of Providence offered her a teaching position.

Employee further contends that the “e-mail” from Jo-Ann Ramos (hereinafter Ms. Ramos) a temporary employee with the City of Providence School Department at the time of Appellant’s hire is sufficient evidence to establish that a teaching position was indeed offered. (Appellant’s Exhibit 1). The “e-mail” was not an actual job offer; Ms. Ramos prepared the “e-mail” to assist Appellant with her hearing before the Referee. No evidence memorializing any employment agreement was provided as proof at any stage of this employment benefits claim. Moreover, Ms. Ramos did not testify at any hearing.

Finally, there is the Appellant’s “voice mail” message left by Ms. Ramos stating, “...[s]o but you’re not starting until August which would be the problem. Um, I think you’re all set. I’ m going to have you signed off and ah, we will be calling you in August.” (Referee’s Hearing, p. 15, Lines 15-18). Even with this voice recorded statement, the Referee concluded that the Appellant left her employment without good cause, because a prospective job offer had not been made. Even accepting the statements, from lines 15-18, as a job offer, it would appear that the Appellant still needed to appear at the Providence School Department and sign the necessary employment paperwork to finalize the employment agreement. That last step did not take place before or after Appellant quit her job.

In this case, the Appellant/ Employee did not meet her evidentiary burden and proved that she indeed had a teaching position offered, prior to or at the time she left her job, from the City of Providence. The Employee left her job without good cause. As such, Employee’s appeal is denied.

The Board of Review’s decision that the Employee was ineligible to receive employment security benefits was not clearly erroneous in view of the reliable, probative,

and substantial evidence of the whole record. See R.I. General Laws § 42-35-15 (g) (5).

For the aforementioned reasons, the Board of Review's decision is affirmed.

CONCLUSION

Accordingly, the Appeal is denied; the Decision of the Board of Review is affirmed.