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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0461-15T4

ELIZABETH R. SIEGEL,

Appellant,

v.

BOARD OF REVIEW, DEPARTMENT
OF LABOR, AND HOWMEDICA
OSTEONICS CORP.,

Respondents.

Submitted February 14, 2017 – Decided March 2, 2017

Before Judges Fasciale and Gilson.

On appeal from the Board of Review, Department
of Labor, Docket No. 039,459.

Elizabeth R. Siegel, appellant pro se.

Christopher S. Porrino, Attorney General,
attorney for respondent Board of Review
(Melissa H. Raksa, Assistant Attorney General,
of counsel; Arupa Barua, Deputy Attorney
General, on the brief).

Reed Smith, L.L.P., attorneys for respondent
Howmedica Osteonics Corp. (John T. McDonald,
on the brief).

PER CURIAM

Elizabeth Siegel appeals from a July 30, 2015 final decision by the Board of Review (Board) concluding she was disqualified to receive unemployment compensation benefits because she left work voluntarily without good cause attributable to the work pursuant to N.J.S.A. 43:21-5(a). We affirm.

Howmedica Osteonics Corp. (Howmedica) employed Siegel as a secretary from 2002 until September 19, 2014. Siegel contends that Howmedica forced her to leave her position due to alleged stressful working conditions created by her director, including verbal abuse and bullying. As a result, Siegel notified Howmedica that she was resigning.

Siegel applied for unemployment benefits, but a deputy director found her ineligible determining she had voluntarily left work without good cause attributable to the work. Siegel administratively appealed to an Appeal Tribunal, which conducted a hearing and upheld the deputy director's determination. The hearing examiner found:

In this matter, the claimant has not met the burden of proof, that she had good cause to leave available work to join the ranks of the unemployed. She had not been under threat of discharge. Work was still available to her. She did not attempt to resolve the issues with [her] employer [] prior to her leaving. She had other avenues that she could have utilized[,] but did not based upon an experience from eleven years earlier. The claimant places blame upon her director and

because of how she was spoken to by her that she started to see a doctor[. T]he doctor did not advise the claimant to leave her place of employment. She did not ask for help because she is not that way.

The claimant is the separating party and ended the employer[/]employee relationship without good cause and failed to do everything within her control to remain employed.

Siegel appealed the decision of the Appeal Tribunal to the Board, which affirmed and issued the decision under review.

On appeal, Siegel maintains that Howmedica forced her to leave her employment because of the purported stressful employment conditions. Siegel argues, therefore, that the Board's decision was arbitrary, capricious, and unreasonable.

The scope of our review in an appeal from a final administrative agency determination is limited. The agency's decision may not be disturbed unless shown to be arbitrary, capricious or unreasonable. Brady v. Bd. of Review, 152 N.J. 197, 210 (1997) (citing In re Warren, 117 N.J. 295, 296 (1989)). We "can intervene only in those rare circumstances in which an agency action is clearly inconsistent with its statutory mission or with other State policy." Ibid. (quoting George Harms Constr. Co. v. N.J. Tpk. Auth., 137 N.J. 8, 27 (1994)). Furthermore, "[i]n reviewing the factual findings made in an unemployment compensation proceeding, the test is not whether an appellate

court would come to the same conclusion if the original determination was its to make, but rather whether the factfinder could reasonably so conclude upon the proofs." Ibid. (alteration in original) (quoting Charatan v. Bd. of Review, 200 N.J. Super. 74, 79 (App. Div. 1985)).

Here, the Board found that Siegel was disqualified from unemployment compensation benefits under N.J.S.A. 43:21-5(a), which provides that an individual may not receive benefits if he or she "left work voluntarily without good cause attributable to such work[.]" Although the statute does not define the term "good cause," we have construed the term to mean a "cause sufficient to justify an employee's voluntarily leaving the ranks of the employed and joining the ranks of the unemployed." Domenico v. Bd. of Review, 192 N.J. Super. 284, 287 (App. Div. 1983) (quoting Condo v. Bd. of Review, 158 N.J. Super. 172, 174 (App. Div. 1978)).

The test for determining whether an employee's decision to leave work constitutes "good cause" is one of "ordinary common sense and prudence." Brady, supra, 152 N.J. at 214 (quoting Zielenski v. Bd. of Review, 85 N.J. Super. 46, 52 (App. Div. 1964)). The employee's decision to quit "must be compelled by real, substantial and reasonable circumstances not imaginary, trifling and whimsical ones." Ibid. (quoting Domenico, supra, 192 N.J. Super. at 288). "A claimant has the 'responsibility to do

whatever is necessary and reasonable in order to remain employed.'" Ibid. (quoting Heulitt v. Bd. of Review, 300 N.J. Super. 407, 414 (App. Div. 1997)).

In this case, Siegel claims that her supervisor subjected her to stressful working conditions, which allegedly resulted in several "flare ups." Siegel did not report her concerns to human resources, request a transfer, seek a leave of absence, or produce any credible evidence to show she developed any illness related to the employment conditions. Based on the evidence presented at the Appeal Tribunal hearing, the Board reasonably found that Siegel did not leave her job as a result of the alleged conditions.

We conclude that there is sufficient credible evidence in the record supporting the Appeal Tribunal's and the Board's determination that Siegel did not leave her job for good cause attributable to the work. N.J.S.A. 43:21-5(a). Siegel failed to show that she left the position for a reason "so compelling as to give [the employee] no choice but to leave the employment." N.J.A.C. 12:17-9.1(b).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION