SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1009-15T4

REGINA M. REYNOLDS,

Appellant,

v.

BOARD OF REVIEW and
BOROUGH OF ORADELL,

Respondents.

Argued January 31, 2017 – Decided February 28, 2017

Before Judges Fasciale and Gilson.

On appeal from the Board of Review, Department of Labor and Workforce Development, Docket No. 002,299.

Regina M. Reynolds, appellant, argued the cause pro se.

Robert M. Strang, Deputy Attorney General, argued the cause for respondent Board of Review (Christopher S. Porrino, Attorney General, attorney; Mr. Strang, on the brief).

Stefani C. Schwartz argued the cause for respondent Borough of Oradell (Schwartz Simon Edelstein & Celso, attorneys; Ms. Schwartz, on the brief).

PER CURIAM

Regina M. Reynolds appeals a September 22, 2015 final agency decision by the Board of Review (Board), which found that she was disqualified from receiving unemployment compensation benefits under N.J.S.A. 43:21-5(a) because she left her job voluntarily without good cause attributable to the work. The Board also required Reynolds to refund benefits she had received before the ineligibility determination. We affirm.

Reynolds worked part-time as the recreational director for the Borough of Oradell (Borough) from June 1, 2011, to May 31, 2013. She was paid $18,000 per year. In 2013, she requested the Borough to increase her salary and to make her position a full-time position. The Borough refused. In April 2013, Reynolds wrote a letter to the Borough giving notice that she was resigning effective June 1, 2013, because she felt that her compensation was inadequate.

After leaving her employment, Reynolds filed for unemployment compensation benefits. The deputy director initially approved her claim for unemployment benefits and she received twelve weeks of benefits totaling $2700.

In July 2013, the Borough appealed the deputy director's determination and the Appeal Tribunal scheduled a hearing. Reynolds, however, was unable to attend the hearing for personal

reasons. The Appeal Tribunal determined that Reynolds was ineligible for benefits because she had voluntarily left work without good cause attributable to the work. The Board affirmed the Appeal Tribunal's determination in an order issued on October 1, 2013. Reynolds appealed and we remanded the matter to allow Reynolds to appear at a hearing.

On remand, Reynolds appeared and participated at a new hearing. On March 20, 2015, the Appeal Tribunal issued a second decision finding that Reynolds was ineligible for benefits under N.J.S.A. 43:21-5(a) because she left work voluntarily without good cause attributable to such work. The appeals examiner found that Reynolds had been hired as a part-time recreational director in June 2011. At that time, Reynolds understood that she would be paid a set salary regardless of the number of hours she worked and Reynolds agreed to those conditions. While employed, Reynolds was never promised a pay increase nor was she promised full-time employment. In 2013, Reynolds requested a change in her status from part-time to full-time employment with an increased salary. The Borough rejected that proposal and Reynolds then resigned her position. The appeals examiner also found that Reynolds had not carried her burden and failed to establish that she had good cause attributable to her work for leaving her job at the Borough.

Reynolds administratively appealed the Appeal Tribunal's decision. On September 22, 2015, the Board issued two decisions. First, it affirmed the Appeal Tribunal's March 20, 2015 decision finding that Reynolds was ineligible for benefits. Second, the Board upheld the Appeal Tribunal's decision finding that Reynolds was responsible for refunding $2700 in benefits she had received before she was determined to be ineligible.[1]

On this appeal, Reynolds argues that the dispute over whether she should have received a raise constitutes good cause attributable to the work and, therefore, she qualifies for benefits. For the first time, Reynolds also argues that the compensation she received did not meet the test to be an exempt employee under the federal Fair Labor Standards Act, 29 U.S.C.A. § 201 to § 219.

The scope of our review on an appeal from a final determination of an administrative agency is limited. The agency's

[1] After the Appeal Tribunal made its initial determination that Reynolds was ineligible for benefits, it issued a decision on January 15, 2014, finding that Reynolds was liable for refunding the benefits she had received before her ineligibility determination. See N.J.S.A. 43:21-16(d) and N.J.A.C. 12:17-14.2. Reynolds participated in the hearing concerning that determination. Accordingly, when we remanded the initial determination concerning her ineligibility for benefits, we did not address the January 15, 2014 determination regarding refunding benefits.

decision should 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 Reynolds 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," that phrase has been construed 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)).

An employee's dissatisfaction with his or her compensation does not establish good cause to leave employment unless there was a breach of a contractual obligation. DeSantis v. Bd. of Review, 149 N.J. Super. 35, 38 (App. Div. 1977) ("Absent a contractual obligation on the part of the employer with respect to salary increments . . . an employee's frustration caused by not receiving an expected pay raise does not constitute good cause within the statutory intendment."). Moreover, an employee's dissatisfaction with his or her working conditions does not establish good cause

to leave employment. Domenico, supra, 192 N.J. Super. at 288 ("Mere dissatisfaction with working conditions which are not shown to be abnormal or do not affect health, does not constitute good cause for leaving work voluntarily." (quoting Medwick v. Bd. of Review, 69 N.J. Super. 338, 345 (App. Div. 1961))).

Here, Reynolds had no contractual agreement with the Borough entitling her to a pay raise. Instead, Reynolds requested a change in her employment status from part-time to full-time and an increase in her pay. The Borough, however, declined to accept Reynolds' proposal. Reynolds then voluntarily resigned. Based on our review of the record, we conclude that there is no basis to disturb the findings of fact or conclusions of law of the Board, which adopted the determinations of the Appeal Tribunal.

We decline to address Reynolds's arguments under the Fair Labor Standards Act, 29 U.S.C.A. § 201 to § 219, because she did not raise that issue before the Board. See Edmondson v. Bd. of Educ. of Borough of Elmer, 424 N.J. Super. 256, 266 (App. Div. 2012) ("This court generally does not address issues that have not been raised in the proceeding from which an appeal is taken." (citing Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973))).

Affirmed.