

MEMORANDUM DECISION – NOT FOR PUBLICATION

BARNES, Judge

Case Summary

D.K. appeals the denial of his request for unemployment benefits by the Review Board of the Indiana Department of Workforce Development (“Review Board”). We affirm.

Issue

D.K. raises two issues, which we consolidate and restate as whether the Review Board properly determined that D.K. was discharged for good cause and, thus, ineligible for unemployment benefits.

Facts

D.K. was employed as a truck driver for H.T.C. (“Employer”) from September 8, 2008, to August 25, 2009. On August 25, 2009, D.K. was driving through a construction zone when he collided with the vehicle in front of him and that vehicle, in turn, collided with another vehicle. D.K. was injured in the collision. Employer terminated D.K.’s employment because he was involved in an accident and he was found to be “at fault.” Tr. p. 5.

D.K. filed for unemployment benefits, and on September 16, 2009, a claims deputy of the Department of Workforce Development found that D.K. was not discharged for just cause and was eligible for benefits. Employer appealed the deputy’s determination, and a hearing was held before an administrative law judge (“ALJ”). The ALJ determined that D.K. was discharged for just cause because he breached a duty in

connection with work which was reasonably owed to Employer. D.K. appealed the ALJ's decision to the Review Board, which adopted the ALJ's findings and conclusions and affirmed the ALJ's decision. D.K. now appeals the Review Board's decision.

Analysis

The issue is whether the Review Board properly determined that D.K. was discharged for good cause and, thus, ineligible for unemployment benefits. On appeal, we review the Review Board's (1) determinations of specific or basic underlying facts; (2) conclusions or inferences from those facts, or determinations of ultimate facts; and (3) conclusions of law. McClain v. Review Bd. of Indiana Dep't of Workforce Dev., 693 N.E.2d 1314, 1317 (Ind. 1998). The Review Board's findings of basic fact are subject to a "substantial evidence" standard of review. Id. In this analysis, we neither reweigh the evidence nor assess the credibility of witnesses and consider only the evidence most favorable to the Review Board's findings. Id. Reversal is warranted only if there is no substantial evidence to support the Review Board's findings. Id. (citing KBI, Inc. v. Review Bd. of Indiana Dep't of Workforce Dev., 656 N.E.2d 842, 846 (Ind. Ct. App. 1995)). Next, the Review Board's determinations of ultimate facts, which involve an inference or deduction based upon the findings of basic fact, are generally reviewed to ensure that the Review Board's inference is reasonable. Id. at 1317-18. Finally, we review conclusions of law to determine whether the Review Board correctly interpreted and applied the law. McHugh v. Review Bd. of Indiana Dep't of Workforce Dev., 842 N.E.2d 436, 440 (Ind. Ct. App. 2006).

An unemployment claimant is ineligible for unemployment benefits if he or she was discharged for just cause. Russell v. Review Bd. of the Indiana Dep't of Employment and Training Servs., 586 N.E.2d 942, 948 (Ind. Ct. App. 1992). Just cause includes discharge for “any breach of duty in connection with work which is reasonably owed an employer by an employee.” Ind. Code § 22-4-15-1(d)(9). In construing Indiana Code Section 22-4-15-1, this court has held:

Determination of just cause is a question of fact. It is conduct evidencing such willful or wanton disregard of the employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or a carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional or substantial disregard of the employer's interest or of the employee's duties or obligation to his employer.

Yoldash v. Review Bd. of Indiana Employment Sec. Div., 438 N.E.2d 310, 312 (Ind. Ct. App. 1982) (citation, emphasis, and quotation omitted).

D.K. argues the evidence is insufficient to show that he was at fault in the accident and that the accident was significant in terms of cost. D.K.'s argument is merely a request that we reweigh the evidence and judge the credibility of the witnesses, which we cannot do. Evidence was presented that D.K. was driving Employer's semi-tractor trailer when he was involved in a collision with the vehicle in front of him, resulting in a chain-reaction crash. D.K. testified that “based on how fast [he] was going [he] thought there was sufficient road [to stop], but . . . there wasn't.” Tr. p. 12. The Indiana Officer's Standard Crash Report provided that D.K. “following too closely” was the primary cause

of the collision.¹ Id. at 14. The officer did not delineate any other contributing causes of the collision. D.K. was injured in the collision, and the officer estimated damage costs to the vehicles at \$5,000 to \$10,000. Given the evidence presented, we conclude that the Review Board’s factual findings are supported by substantial evidence.

D.K. also seems to argue that the Review Board’s conclusion that D.K. breached a duty to Employer is erroneous as a matter of law. The Review Board made factual findings that D.K. was involved in a collision with a vehicle in front of him, and it concluded that D.K. “was discharged after causing an accident with considerable damage.” App. p. 4. Although the Review Board concluded that D.K.’s conduct was not “willful or wanton,” it concluded his conduct was “negligen[t] to such a degree to manifest equal culpability.” Id.

According to D.K. “[b]ecause the employer did not fire the appellant for failure to avoid an accident, the duty and subsequent breach of that duty as found by the . . . Review Board, as just cause, is erroneous as a matter of law and should be reversed.”² Appellant’s Br. p. 5. However, the Review Board did, in fact, conclude that D.K. breached a duty to Employer by causing an accident with considerable damage, and this

¹ D.K. argues that the Indiana Officer’s Standard Crash Report contained hearsay within hearsay. D.K. did not object to the admission of the Crash Report at the hearing with the ALJ on this basis and has waived this argument.

² D.K.’s argument on this point is unclear. We remind D.K. that “[w]e will not become an advocate for a party, nor will we address arguments which are either inappropriate, too poorly developed or improperly expressed to be understood.” Terpstra v. Farmers & Merchants Bank, 483 N.E.2d 749, 754 (Ind. Ct. App. 1985), trans. denied. Despite the lack of clarity in his argument, we will attempt to address the issue as we understand it.

conclusion is reasonable. As a result of D.K.'s negligence, he breached a duty owed to Employer, and the Review Board properly found that he was discharged for just cause.

Conclusion

The Review Board properly concluded that D.K. was discharged for just cause and was ineligible for unemployment benefits. We affirm.

Affirmed.

BAKER, J., and VAIDIK, J., concur.