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IN THE
COURT OF APPEALS OF INDIANA

M.A.B.,	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 93A02-0906-EX-588
	)	
REVIEW BOARD OF THE INDIANA	)	
DEPARTMENT OF WORKFORCE	)	
DEVELOPMENT and WAL-MART	)	
ASSOCIATES, INC.,	)	
Appellees-Plaintiffs.	)	

APPEAL FROM THE REVIEW BOARD OF THE
DEPARTMENT OF WORKFORCE DEVELOPMENT
The Honorable Steven F. Bier, Chairperson, Honorable George H. Baker, Member,
and Honorable Lawrence A. Dailey, Member
Case No. 09-R-01858

March 1, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

M.A.B. appeals the Indiana Department of Workforce Development Review Board's ("the Review Board") conclusion that M.A.B. voluntarily left employment without good cause in connection to the work. We affirm.

Facts and Procedural History

On March 25, 2008, M.A.B. began working part-time at a Walmart store in Plymouth, Indiana. M.A.B. later sought and received a transfer to a Walmart store in Madisonville, Tennessee. On August 2, 2008, M.A.B. began his employment with the Madisonville Walmart store. On August 26, 2008, M.A.B. gave written notice of his intent to leave employment, and stated that his last day of work would be September 23, 2008. The notice did not provide a reason for leaving employment. M.A.B. terminated his employment with Walmart on September 13, 2008, after a store manager told him he did not need to work out his notice.

M.A.B. subsequently filed a claim for unemployment benefits with the Indiana Department of Workforce Development.[1] On December 31, 2008, a claims deputy found that M.A.B.

> voluntarily left employment without good cause in connection with the work in order to accept other employment. Since the new employment did not materialize and the claimant does not have subsequent wage earnings in excess of the weekly wage benefit amount in at least eight weeks, the penalty provision of IC 22-4-15-1 applies. In accordance with IC 22-4-11-1(d)1 the employer is relieved of charges. Benfits [sic] are reduced and suspended as shown below.

Appellant's App. p. 2.

[1] It is not entirely clear from the record why M.A.B. filed his employment claim in Indiana instead of Tennessee where he continues to reside. We can only assume that M.A.B. may not have resided and worked in Tennessee for a sufficient period of time to claim unemployment benefits from that state.

M.A.B. appealed the claims deputy's determination and a telephonic hearing was held on April 6, 2009. On April 20, 2009, the administrative law judge ("the ALJ") issued her findings of fact and conclusions of law and modified the decision of the claims deputy. Specifically, the ALJ found:

> . . . The Claimant left employment because of safety issues, non-compliance with policies and procedures, a hostile work environment, and promises being broken in regard to the number of hours worked. The claimant left work on September 13, 2008 because a superior told him he did not need to work out his notice.
>
> The Claimant was concerned about safety issues with spills on the floor not being cleaned up in a timely manner. The claimant was concerned that shelves were not stocked in compliance with policy and procedures as to where items were located on the shelves. The Claimant told the Assistant Manager about his concerns with stocking the shelves in accordance with policies and procedures. The Assistant Manager told the Claimant not to worry about it. The claimant was also concerned that shelves were overloaded. The shelves were not overloaded.
>
> The Claimant thought the work environment was hostile because of the Assistant Manager's response to his concern with following the policies and procedures for stocking shelves. A superior told the claimant that he was too perfect and too slow about stocking shelves. The claimant exceeded the number of cases per hour that needed to be stocked. The claimant never received any formal reprimands for performance.
>
> The claimant transferred to the location he ended employment with. When the claimant transferred he understood the position to be a full-time position. The position was not a full-time position. The claimant was told that it would start as a part-time position and then lead into a full-time position. The claimant worked at his final location for less than one month before submitting his resignation.
>
> The Claimant requested to talk to the Store Manager about transferring. The Claimant did not transfer stores. The Claimant had to fill out an application to work for another store, and then an e-mail would be sent to the Store Manager for approval of the transfer. The Claimant did not [] fill out an application at another store. The Claimant previously transferred stores.

> The Employer recommended the Claimant for re-hire after he left employment.

Appellee's App. pp. 43-44. The ALJ then concluded that M.A.B. "failed to present sufficient evidence to show he left employment for good cause in connection with work. It is not the purpose of the Employment Security Act to allow employees to terminate their employment merely because working conditions are not to their liking. . . . The circumstances, as described by the Claimant, were not so unreasonable or so unfair as to compel a reasonably prudent person to leave employment under the same or similar circumstances." Id. at 44. Ultimately, the ALJ suspended M.A.B.'s benefit rights effective the week ending September 13, 2008 until M.A.B. "has earned his weekly benefit amount in each of eight weeks. The Claimant's maximum amount is reduced by 25%." Id.

M.A.B. appealed the ALJ's decision to the Review Board. On June 4, 2009, the Review Board adopted the ALJ's findings of fact and conclusions of law and affirmed the ALJ's decision. M.A.B. now appeals.

Discussion and Decision

M.A.B. argues that the Review Board erred when it determined that he voluntarily left employment without good cause in connection to the work. Our standard of review is well settled:

> "The Indiana Unemployment Compensation Act provides that any decision of the review board shall be conclusive and binding as to all questions of fact. Review Board decisions may, however, be challenged as contrary to law, in which case the reviewing court examines the sufficiency of the facts found to sustain the decision and the sufficiency of the evidence

> to sustain the findings of facts. Under this standard, we review determinations of specific or basic underlying facts, conclusions or inferences drawn from those facts, and legal conclusions.
>
> When reviewing a decision by the Review Board, our task is to determine whether the decision is reasonable in light of its findings. Our review of the Review Board's findings is subject to a "substantial evidence" standard of review. In this analysis, we neither reweigh the evidence nor assess witness credibility, and we consider only the evidence most favorable to the Review Board's findings. Further, we will reverse the decision only if there is no substantial evidence to support the Review Board's findings."

Best Chairs v. Review Bd. of Ind. Dep't of Workforce Dev., 895 N.E.2d 727, 730 (Ind. Ct. App. 2008) (quoting Quakenbush v. Review Bd. of Ind. Dep't of Workforce Dev., 891 N.E.2d 1051, 1053 (Ind. Ct. App. 2008) (internal citations omitted)).

"The purpose of the Unemployment Compensation Act is to provide benefits to those who are involuntarily out of work through no fault of their own." Fuerst v. Review Bd. of Workforce Dev., 823 N.E.2d 309, 312 (Ind. Ct. App. 2005). The eligibility requirements for unemployment benefits include that an individual must be unemployed, have sufficient wage credits in his base period, be able, available, and actively seeking work, and meet certain registration and reporting requirements. Ind. Code §§ 22-4-14-2, -3, -5(d)-(e) (2005).

An employee who voluntarily leaves employment without good cause in connection with the work is not entitled to unemployment compensation benefits. See Ind. Code § 22-4-15-1(a) (2005); Best Chairs, 895 N.E.2d at 730. "[A] stricter standard is imposed on those who voluntarily quit working." Davis v. Review Bd. of Ind. Dep't of Workforce Dev., 900 N.E.2d 488, 492 (Ind. Ct. App. 2009) (citation omitted).

The employee bears the burden to establish that he or she quit for good cause and must establish that:

> (1) the reasons for leaving employment were such as to impel a reasonably prudent person to terminate employment under the same or similar circumstances; and (2) the reasons are objectively related to the employment. This second component requires that the employee show her reasons for terminating employment are job-related and objective in nature, excluding reasons which are personal and subjective.

Best Chairs, 895 N.E.2d at 730 (quoting M & J Mgmt., Inc. v. Rev. Board of the Dep't of Workforce Dev., 711 N.E.2d 58, 62 (Ind. Ct. App. 1999) (internal citation omitted). It is only when the employer's demands on the employee are so unreasonable and unfair that a reasonably prudent person would be impelled to terminate that "good cause" exists for voluntary termination. Davis, 900 N.E.2d at 492; Kentucky Truck Sales, Inc. v. Review Bd. of Ind. Dep't of Workforce Dev., 725 N.E.2d 523, 526 (Ind. Ct. App. 2000).

In this case, M.A.B. chose to voluntarily terminate his employment with Walmart due to his concern that management was not following the company's policies and procedures with regard to stocking shelves and maintaining the store in a safe condition for its customers. M.A.B. may have been verbally reprimanded by management over these disagreements, but as the ALJ found, he was never formally reprimanded.[2] Appellant's App. p. 44. In fact, after M.A.B. voluntarily terminated his employment with Walmart, he was recommended for rehire. Id. at 22. Under the facts and circumstances

[2] In his brief, M.A.B. continues to argue that Walmart management allowed overstocked shelves and failed to maintain the store in a safe condition. At the hearing, Walmart presented evidence to refute M.A.B.'s claims. M.A.B.'s argument is merely a request to reweigh the evidence and the credibility of the witnesses, which our court will not do. See Best Chairs, 895 N.E.2d at 730. For this same reason, we do not address M.A.B.'s argument that he was denied a transfer to another Walmart store.

before us, M.A.B. has not established that his reasons for terminating his employment with Walmart would impel a reasonably prudent person to terminate employment under the same or similar circumstances. Accordingly, we conclude that the evidence supports the ALJ's decision, which was adopted by the Review Board, that M.A.B. voluntarily terminated his employment without good cause in connection to the work.

Affirmed.

BARNES, J., and BROWN, J., concur.