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**IN THE
COURT OF APPEALS OF INDIANA**

CLINTON W. GIBSON, III,)
Appellant,)
)
vs.)
)
REVIEW BOARD OF THE INDIANA)
DEPARTMENT OF WORKFORCE)
DEVELOPMENT and EXPRESS)
EMPLOYMENT PROFESSIONALS, INC.,)
Appellees.)

No. 93A02-0810-EX-966

APPEAL FROM THE REVIEW BOARD OF THE DEPARTMENT
OF WORKFORCE DEVELOPMENT
The Honorable Steven F. Bier, Chairperson,
George H. Baker, Member and Lawrence A. Dailey, Member
Cause No. 08-R-02589

April 28, 2009

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

The Unemployment Insurance Review Board (“the Board”) issued a decision denying unemployment benefits to Clinton Gibson, III (“Gibson”) and Gibson appeals. Concluding that Gibson failed to present evidence in support of his claim that he was unable to work for medical reasons, we affirm.

Facts and Procedural History

Gibson was employed by Express Employment Professionals, a temporary employment agency. From February 20, 2008 to May 2, 2008, Gibson was assigned to work at Micronutrients as a materials handler and that assignment required heavy lifting. On May 3, 2008, Gibson fell off of a ladder at his home, and his resulting injuries required hospitalization for one week.

Gibson subsequently filed a claim for unemployment benefits, and his claim was denied upon the determination that Gibson voluntarily left employment without good cause. Gibson filed an appeal of the denial, and a telephonic hearing was held on August 5, 2008. The administrative law judge (“the ALJ”) issued his findings of fact shortly thereafter and found:

On May 3rd the claimant injured himself at home and was in the hospital for a week. The claimant was restricted from going to work for the next month. The claimant asserts he did inform his supervisor of the injury and that he also informed someone at the employer. The client had informed the employer that the claimant was a no call/no show. After informing the supervisor and the employer of the issue, there was no further contact.

Appellant’s App. p. 6. The ALJ concluded that Gibson

quit because he injured himself. No medical documentation was provided to the employer nor was there any provided for the hearing. The claimant’s medical condition happened on his own time and since he did not provide any medical documentation to anyone and simply told the employer that he

could not work, the [ALJ] finds that the claimant left the employment without good cause.

Id. at 6-7. Gibson appealed the ALJ's decision to the Board, and the Board affirmed the ALJ's denial of unemployment benefits. Gibson now appeals.

Standard of Review

The Indiana Unemployment Compensation Act provides that “[a]ny decision of the review board shall be conclusive and binding as to all questions of fact.” Ind. Code § 22-4-17-12(a). Indiana Code section 22-4-17-12(f) provides that when the Board's decision is challenged as contrary to law, the reviewing court is limited to a two part inquiry into: (1) “the sufficiency of the facts found to sustain the decision”; and (2) “the sufficiency of the evidence to sustain the findings of facts.” “Under this standard courts are called upon to review (1) determinations of specific or ‘basic’ underlying facts, (2) conclusions or inferences from those facts, sometimes called ‘ultimate facts,’ and (3) conclusions of law.” McClain v. Review Bd. of Ind. Dep’t of Workforce Dev., 693 N.E.2d 1314, 1317 (Ind. 1998).

“Review of the Board's findings of basic fact is subject to a ‘substantial evidence’ standard of review.” Id. In this analysis the appellate court neither reweighs the evidence nor assesses the credibility of witnesses and considers only the evidence most favorable to the Board's findings. Id. We will reverse the decision only if there is no substantial evidence to support the Board's findings. Stanrail Corp. v. Review Bd. of Dep’t of Workforce Dev., 735 N.E.2d 1197, 1202 (Ind. Ct. App. 2000), trans. denied. The Board's determinations of ultimate facts involve an inference or deduction based

upon the findings of basic fact and are typically reviewed to ensure that the Board's inference is reasonable. McClain, 693 N.E.2d at 1317-18. We examine the logic of the inference drawn and impose any applicable rule of law. Id. Some questions of ultimate fact are within the special competence of the Board, and it is therefore appropriate for us to accord greater deference to the reasonableness of the Board's conclusion. Id. at 1318. However, as to ultimate facts, which are not within the Board's area of expertise, we are more likely to exercise our own judgment. Id.

We review conclusions of law to determine whether the Board correctly interpreted and applied the law. Stainrail, 735 N.E.2d at 1202. "In sum, basic facts are reviewed for substantial evidence, conclusions of law are reviewed for their correctness, and ultimate facts are reviewed to determine whether the Board's finding is a reasonable one." Id.

Discussion and Decision

"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). However, an employee is disqualified from collecting unemployment compensation if the employee has left his employment voluntarily "without good cause in connection with the work[.]" Ind. Code § 22-4-15-1(a). The employee has the burden of establishing that the voluntary termination of employment was for good cause; therefore, the employee must show 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 [his] reasons for terminating employment are job-related and objective in nature, excluding reasons which are personal and subjective.

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).

Gibson argues that he was entitled to unemployment benefits under Indiana Code section 22-4-15-1(c)(2), which provides: “An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.”

However, Gibson admits that “during the hearing he did not support his claims.” Appellant’s Br. at 5. Gibson claims he did not do so because he did not have the funds to hire an attorney, and he was not familiar with hearing procedures. Id. at 6. However, “[i]t is well settled that pro se litigants are held to the same standard as licensed lawyers.” Novatny v. Novatny, 872 N.E.2d 673, 677 n. 3 (Ind. Ct. App. 2007).

Moreover, prior to the hearing, the Department of Workforce Development mailed telephone hearing instructions to Gibson. The instructions state:

Exhibits are documents or other materials that are relevant and important to your case. If you have documents that you wish to have considered at your hearing, you must label each document or other exhibit with a letter or number so that they can be easily referred to during your hearing. Documents or exhibits with multiple pages should be labeled accordingly[.] YOU MUST SEND A COPY OF THE EXHIBIT TO THE OTHER PARTY AND ALSO TO THE ADMINISTRATIVE LAW JUDGE. Failure to send the exhibits in advance of the hearing may result in the Administrative Law Judge refusing to allow them to be admitted or discussed at the hearing.

Appellee's App. p. 3. From these instructions, Gibson was put on notice that it was important to support his claim with documentation and he was informed of the procedures for submitting his supporting documentation. For all of these reasons, we reject Gibson's argument that he is entitled to a new hearing on his claim for unemployment benefits.

Affirmed.

RILEY, J., and KIRSCH, J., concur.