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APPEAL FROM THE REVIEW BOARD OF THE DEPARTMENT OF WORKFORCE  
DEVELOPMENT

The Honorable Steven F. Bier, Chairperson  
The Honorable George H. Baker, Member  
The Honorable Lawrence A. Dailey, Member  
Cause No. 07-R-2827

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**June 24, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BARNES, Judge**

**Case Summary**

Lisa Tate appeals the decision of the Review Board of the Indiana Department of Workforce Development (the “Board”) denying her claim for unemployment benefits.

We affirm.

**Issue**

Tate presents one issue for review, which we restate as whether the Board’s determination that she quit her job without good cause is reasonable in light of its findings.

**Facts**

Tate worked at Southern Enterprises from June 2004, until August 8, 2007. Southern Enterprises is a franchise of Servpro, Inc. Greg and Lynn Southern owned and

operated the franchise.<sup>1</sup> Tate complained that the couple would have disruptive arguments with each other during the workday, which often would then involve her. Tate also complained that the Southern brought their dogs and their grandson to work, and she would have to care for the animals and child. Tate was required to clock in and out for smoking breaks. The Southern had at times instructed Tate to tell creditors that certain checks had been issued when Tate knew those checks would not be timely mailed because of insufficient funds. Tate also believed her employer was in violation of its franchise agreement regarding vehicle painting and intentionally hid such violations from franchise representatives. After a confrontation with Lynn Southern regarding Tate's failure to clock out when she left the office to make a call and smoke, Tate quit.

Tate applied for unemployment benefits and a claims deputy determined that she voluntarily left her employment without good cause and denied the application on September 17, 2007. She appealed that determination and an Administrative Law Judge ("ALJ") held a hearing on October 31, 2007. The ALJ reversed the decision of the deputy, concluding that Tate left her employment with good cause in connection with the work. The ALJ concluded that the fact that the Southern argued and involved Tate in their arguments was a condition that would cause a reasonable person to feel compelled to quit. The ALJ also concluded the fact that Tate was instructed by the owners to intentionally mislead creditors was good cause for her to voluntarily terminate her employment. The ALJ found that Tate's other complaints did not constitute good cause.

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<sup>1</sup> Greg Southern is related to Tate's husband and the Southern work with and/or sponsor Tate's husband's racing team.

Southern Enterprises appealed the ALJ's determination to the Board. The Board found that "while her working conditions were not entirely to her liking, they were not so unreasonable that they constituted good cause for leaving her employment" and reversed the decision of the ALJ. Appellant's App. p. 4. This appeal followed.

### **Analysis**

Tate contends that the Board's conclusion of ultimate fact—that she did not have good cause to quit—is unreasonable and erroneous in light of its findings. "Any decision of the review board shall be conclusive and binding as to all questions of fact." Ind. Code § 22-4-17-12(a). When challenged as contrary to law, the reviewing court is limited to a two-part inquiry into the "sufficiency of the facts found to sustain the decision" and the "sufficiency of the evidence to sustain the findings of fact." McHugh v. Review Bd. of Ind. Dep't of Workforce Dev., 842 N.E.2d 436, 440 (Ind. Ct. App. 2006) (citing I.C. § 22-4-17-12(f)). That standard requires this court to review: "(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." Id.

The Board's findings of fact are subject to a substantial evidence standard of review. Id. We do not reweigh the evidence or assess the credibility of witnesses, and we only consider the evidence most favorable to the Board's findings. Id. We will reverse only if there is not substantial evidence to support the Board's findings. Id. "The Board's conclusions as to ultimate facts involve an inference or deduction based on the findings of basic fact." McClain v. Review Bd. of Ind. Dep't. of Workforce Dev., 693 N.E.2d 1314, 1317 (Ind. 1998). The reviewing court determines if the Board's inference

was a reasonable one. Id. at 1318. “That inference still requires reversal if the underlying facts are not supported by substantial evidence or the logic of the inference is faulty, even where the agency acts within its expertise, or if the agency proceeds under an incorrect view of the law.” Id. We finally assess whether the Board correctly interpreted and applied the law in making the conclusions of law. McHugh, 842 N.E.2d at 436.

An individual who voluntarily leaves his or her employment “without good cause in connection with the work” is not eligible for unemployment benefits. I.C. § 22-4-15-1(a). The question of whether an employee quit without good cause is a question of fact to be determined by the Board. Indianapolis Osteopathic Hosp., Inc. v. Jones, 669 N.E.2d 431, 433 (Ind. Ct. App. 1996). The claimant has the burden to prove good cause existed. Id. The reason for quitting must be job related and objective in character, excluding purely subjective and personal reasons, and would compel a reasonably prudent person to quit. Kentucky Truck Sales, Inc. v. Review Bd. of the Ind. Dep’t. of Workforce Dev., 725 N.E.2d 523, 526 (Ind. Ct. App. 2000).

Tate gave numerous reasons for leaving Southern Enterprises, but the Board did not find any of them compelling. Rather, the Board concluded that Tate’s complaints represented “her general dissatisfaction with her working conditions and her strained personal relationship with owners.” Appellant’s App. p. 4. The ALJ had only found two of the reasons compelling, which were that the owners argued in Tate’s presence and brought her into the fights and that the employer instructed Tate to lie and intentionally mislead creditors. The Board, however, found that the employer did not instruct Tate to

lie, concluded that neither of these reasons was compelling, and concluded that all of Tate's issues were "a shopping list of petty complaints." Id.

Tate abruptly quit her job after being reprimanded for failing to clock out. At the time she told her employer she was leaving to work for her husband, take care of her mother, and work on her home. Though she attributed quitting to different reasons during the application and appeals process for unemployment benefits, the Board concluded these reasons only amounted to personal dissatisfaction with the work and not an objective reason that would cause a reasonably prudent person to quit.

The Board honed in on the fact that Tate abruptly quit following a confrontation with her boss because she had not clocked out when she left the office to use her cell phone and smoke, concluding that this incident was the reason she quit. The Board explained, "It was this incident which prompted her to abruptly resign. Her laundry list of complaints—that occurred at unspecified times or throughout her three year employment—represents her general dissatisfaction with her working conditions and her strained personal relationship with the owners." Id. at 4. The Board found that there was more of a relationship between the parties than simply employer-employee, since Tate's husband was related to Greg Southern and had a relationship with the Southernns through his car racing team. Considering this finding, the Board did not give much weight to Tate's complaint that the Southernns would argue with each other at the workplace. Regarding the check issuing complaint, the Board found the employer denied ever asking employees to lie, but admitted to giving out check numbers and holding checks due to insufficient funds.

After listening to the recorded testimony and reviewing evidence, the Board clearly chose to not to give much weight to the evidence presented by Tate of problematic working conditions. The Board found that her reports did not amount to good cause. The ultimate fact that Tate did not have good cause to leave her employment is reasonable given the facts and evidence. We will not reweigh the evidence to reach a different result.

### **Conclusion**

The Board's findings of fact are supported by the evidence, its conclusion of ultimate fact was reasonable, and it correctly applied the law to deny benefits to Tate. We affirm.

Affirmed.

CRONE, J., and BRADFORD, J., concur.