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FILED
Dec 16 2009, 9:20 am
CLERK
of the supreme court, court of appeals and tax court

IN THE
COURT OF APPEALS OF INDIANA

FAMILY CARE CENTER OF INDIANA "MEDICAL SPECIALISTS,"	)	
Appellant-Employer,	)	
vs.	)	No. 93A02-0904-EX-324
REVIEW BOARD OF THE INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT,	)	
Appellee,	)	
and	)	
CHRISTINE M. WILLIAMSON,	)	
Appellee-Claimant.	)	

APPEAL FROM THE REVIEW BOARD OF
THE INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT
The Honorable Steven F. Bier, Chairperson
The Honorable George Baker and The Honorable Lawrence A. Daily, Members
Cause No. 09-R-420

December 16, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Family Care Center of Indiana (hereafter "Medical Specialists") appeals the decision of the Unemployment Insurance Review Board of the Indiana Department of Workforce Development ("Review Board") that adopted and incorporated the Administrative Law Judge's ("ALJ") findings of fact and conclusions of law, which determined Christine M. Williamson ("Williamson") was eligible to receive unemployment insurance benefits. Medical Specialists raises two issues; however, we find the following restated issue to be dispositive: whether the Review Board's decision that Williamson was discharged from her employment without just cause was contrary to law and the evidence.

We affirm.

FACTS AND PROCEDURAL HISTORY

Medical Specialists is an organization of medical practices providing medical care in northwest Indiana. Williamson was hired in November 2000 as the company's Information Technology Operations Manager ("IT manager"). She was responsible for overseeing all information technology ("IT") activities for the organization and coordinating the activities of vendors and staff. Williamson's supervisor was, at all relevant times, Caren

Gegenheimer, the Chief Financial Officer. Williamson supervised, among others, Dorice Franczyk, the Network Administrator for Medical Specialists.

In February 2007, Williamson suffered a stroke and was off work for approximately a month. In March 2007, she resumed her IT manager position at Medical Specialists. Upon her initial return, she worked part-time, but by mid-July 2007, she was back to full-time hours.

On November 12, 2007, Medical Specialists' president and Chief Operating Officer, Dr. Alexander Stemer, met, at his request, with Williamson in his office. The company's Human Resources Manager, Leah Cappas, was also present for that meeting. Dr. Stemer told Williamson that he and Medical Specialists' management felt that, based on her work performance and recent IT issues, Williamson would not be able to handle the task of arranging the company's upcoming move to another building in February 2008. Dr. Stemer told her that he "should have" a non-management position available for her the following March or April and told her that she could assist in creating the job duties of that position; however, no further details of that were discussed. *Tr*. at 9. Dr. Stemer suggested to Williamson that she take a leave of absence to think about the offer. He told her that she would be paid through the end of November. Williamson left the meeting with the understanding that she had been terminated. She went home and told her husband, "They fired me." *Id*. at 24. Several other managers from Medical Specialists came to her house that day to visit Williamson and express to her their surprise and dismay about the situation.

According to Gegenheimer and Cappas, they attempted to contact Williamson in the days following the November 12 meeting. However, Williamson states that there was no communication from Medical Specialists until she received a letter dated November 28, 2007, from Gegenheimer, which stated, among other things, "The key message that I want you to hear, Christine, is that we have a job for you in our organization, should you want it." *Appellant's App*. at 10 (underlined in original). Gegenheimer's letter told Williamson that Medical Specialists needed an answer to the offer by December 5, 2007. Not having yet heard from Williamson, Gegenheimer met with Williamson on December 4, 2007, at a restaurant as a further follow-up to the situation. At that time, Williamson told Gegenheimer that she was not returning to work at Medical Specialists and ended the conversation. According to Gegenheimer, when she asked Williamson if she was resigning, Williamson replied, "Yes," *Tr*. at 38; however, Williamson denies having made that statement. Thereafter, on December 11, 2007, Cappas made phone contact with Williamson. Williamson repeated that she was not returning to Medical Specialists, requested her unused vacation time, and ended the conversation.

Subsequently, Williamson applied for unemployment compensation benefits. On June 11, 2008, the claims deputy of the Indiana Department of Workforce Development denied her application and issued a written determination that Williamson voluntarily left her employment with Medical Specialists without good cause and was therefore ineligible to receive unemployment benefits. Williamson appealed that decision, and a hearing was held before an ALJ. On January 19, 2009, the ALJ issued a written decision reversing the claims

deputy's determination and held Williamson was discharged from her employment without just cause and was therefore eligible for unemployment benefits. The decision included the following findings and conclusions:

> FINDINGS OF FACT: The claimant worked for this employer for the period from November 13, 2000, to [November][1] 12, 2007. The claimant last worked for the employer as the information technology manager. The claimant was a full-time employee of this employer. . . . The claimant was a salaried employee. The claimant was discharged from her employment with this employer by Alexander A. Stemer, M.D., President. The claimant was discharged on November 12, 2007, but was paid through November 28, 2007. The claimant had not received any written warning from the employer concerning her work performance.
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> Dr. Stemer, President, told the claimant that he felt she could not handle the position of information technology manager because of the change that was coming shortly. The claimant was told she would be paid until the end of November. Dr. Stemer indicated that a new job might be available for the claimant in March or April but it would not be in IT. The claimant was also informed by Alexander A. Stemer, M.D., President, that the new job would not be at the same rate of pay. . . . The claimant learned she was discharged because she had issued a warning to one of her subordinates in writing. This employee was Dorice Franczyk. The claimant had issued the written warning [to Franczyk] on November 8, 2007.
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> From November 12, 2007 to November 28, 2007, the claimant was not at work and did not have a job assignment. . . . The claimant was told she could check back with the employer in March or April about a possible other position. However, the claimant was made aware by Dr. Stemer that this position would not be in information technology and would not be at the same rate of pay. The employer never received a written resignation from the claimant and the claimant was paid through November 28, 2007.

[1] The Findings state "January," however but for this mention of January 12, the remainder of the Findings, as well as the parties' facts and argument, refer to the date of November 12. Thus, we presume the "January" reference was simply a scrivener's error.

> CONCLUSIONS OF LAW: From the foregoing findings, it is concluded that the claimant was discharged from her employment with this employer. It is concluded that the claimant was discharged by the employer's president. . . .
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> It is concluded that the claimant did not receive any written warning concerning her work performance. It is concluded that the claimant was not notified that her job was in jeopardy. . . . It is concluded that the claimant was attempting to work to the best of her ability. It is concluded that the claimant was discharged at the discretion of the employer. Therefore, it is concluded that the claimant was discharged but not for just cause within the meaning of I.C. 22-4-15-1.
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> DECISION: The deputy's determination of June 11, 2008 is, therefore, modified and reversed to show that the claimant was discharged but not for just cause. The claimant, if otherwise eligible, is entitled to receive benefits.

Appellant's App. at 4-5. Medical Specialists appealed the decision to the Review Board, and on March 10, 2009, the Review Board adopted the ALJ's findings and conclusions and affirmed the ALJ's decision, without additional evidence or a hearing. Medical Specialists now appeals.

DISCUSSION AND DECISION

Medical Specialists argues that the Review Board erred when it adopted the ALJ's findings and conclusions, which determined Williamson was discharged from employment with Medical Specialists and that she was entitled to receive unemployment benefits. Indiana's Unemployment Compensation Act provides that any decision of the Review Board shall be conclusive and binding as to all questions of fact. Ind. Code § 22-4-17-12(a). Review Board decisions, however, may be challenged as contrary to law. Ind. Code § 22-4-17-12(f); *Best Chairs, Inc. v. Review Bd. of Ind. Dep't of Workforce Dev*., 895 N.E.2d 727,

730 (Ind. Ct. App. 2008). In that circumstance, the reviewing court makes a two-part inquiry where the court examines the sufficiency of the facts found to sustain the decision and the sufficiency of the evidence to sustain the findings of fact. *Id*. Under this standard, the court reviews (1) determinations of specific or basic underlying facts, (2) conclusions or inferences from those 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); *Davis v. Review Bd. of Ind. Dep't of Workforce Dev.*, 900 N.E.2d 488, 492 (Ind. Ct. App. 2009). The appellate court neither reweighs the evidence nor assesses the credibility of witnesses and considers only the evidence favorable to the Review Board's findings. *McClain*, 693 N.E.2d at 1317. Our task is to determine whether the decision of the Review Board is reasonable in light of its findings. *Best Chairs*, 895 N.E.2d at 730. We will not reverse the Review Board's decision unless reasonable people would be bound to reach a different conclusion. *Davis*, 900 N.E.2d at 492.

Here, Medical Specialists claims that the Review Board's decision was contrary to law because the evidence established that Williamson voluntarily resigned from her employment without good cause when she rejected Medical Specialists's offer to create a new position for her, and, therefore, pursuant to Indiana Code section 22-4-15-1(a),[2] Williamson was not entitled to unemployment compensation benefits. Specifically, Medical Specialists argues, "The Review Board's decision ignored competent evidence establishing

[2] Indiana Code section 22-4-15-1(a) provides that an employee who voluntarily leaves employment "without good cause in connection with the work" is not entitled to unemployment compensation benefits.

that Williamson voluntarily resigned from employment. The only evidence of discharge was Williamson's own testimony, which squarely conflicts with all of the other record evidence including documentary evidence in the form of emails and letters." *Appellee's Br*. at 9. Medical Specialists is correct to the extent that there is evidence that Williamson voluntarily quit or resigned her employment and that such evidence conflicts with Williamson's testimony. However, the existence of conflicting evidence does not necessitate a reversal. Rather, the relevant inquiry is whether the facts are sufficient to sustain the decision and the evidence is sufficient to sustain the findings of fact. *Davis*, 900 N.E.2d at 492.

The evidence most favorable to the decision is that Williamson had encountered difficulties in managing her subordinate, Franczyk, both before and after Williamson's leave of absence. For instance, Franczyk did not regularly report back to Williamson or keep her apprised of issues and problems, nor did Franczyk keep Williamson apprised about the performance of her responsibilities. Williamson felt undermined because Franczyk copied Gegenheimer or other persons in the company's upper-management on emails that Williamson felt should have been directed only to her because she was Franczyk's supervisor and was responsible for all IT functions. Williamson testified that she spoke to Franczyk about the issues, but Franczyk did not acknowledge being aware of Williamson's concerns. Williamson spoke to Gegenheimer about her intention to give Franczyk a written warning, and Gegenheimer approved of Williamson doing so. Thereafter, Williamson issued a written warning to Franczyk on November 8, 2007. Franczyk showed the warning to Gegenheimer, who was surprised at what she considered to be Williamson's harsh tone.

Several days later, on November 12, 2007, Dr. Stemer called Williamson into his office and told her that he did not believe she was capable of handling the IT management responsibilities associated with the upcoming move to another building. He told her that Medical Specialists "should have" a position for her in March or April, but that it would not be in IT and that it would have a reduced rate of pay. *Tr*. at 9. He told her that she would be paid through the end of the month. Williamson asked Dr. Stemer whether the situation had any relation to her November 8 written warning to Franczyk, and, according to Williamson, Dr. Stemer acknowledged that Williamson's written warning to Franczyk was "why he's letting me go [at this time] versus in a few months." *Id*. Williamson testified that she had never received any reprimands or warnings about her work performance before Dr. Stemer relieved her of her IT management duties on November 12.

This is not to say that there was not conflicting evidence, which suggested that Williamson resigned by not accepting another offered position. Gegenheimer testified that she had received complaints from other employees about Williamson's management style becoming unnecessarily harsh. Gegenheimer said that she had met with Williamson weekly following her return to work after the stroke, to assess whether Williamson was comfortable with her work pace and to discuss Williamson's "shortcomings," such as her inability to multi-task. *Id*. at 33. Gegenheimer testified that Medical Specialists had encountered problems with Williamson's performance of duties, such as with the operations of the laboratory system and with not having "line drops" for its network and telephone wires ready before a June 2007 office move, which in turn required Medical Specialists to hire a

third party to handle the situation. *Id*. at 28. Medical Specialists maintains that, for these reasons, they offered to create a position tailor-made to fit Williamson's abilities, but that she declined the offer and voluntarily terminated her employment without good cause. Accordingly, they assert, the Review Board ignored competent evidence and was in error when it adopted the ALJ's determination that she was discharged without just cause and eligible for unemployment compensation benefits. This, however, is an invitation for us to reweigh the evidence and consider evidence that is not favorable to the Review Board's decision. Our standard of review precludes that course. *See McClain*, 693 N.E.2d at 1317 (appellate court does not reweigh evidence or assess credibility of witnesses and considers only evidence most favorable to Review Board's findings). Accordingly, we reject the argument that Williamson voluntarily quit her job.

Under the circumstances of this case, the Review Board determined that Medical Specialists discharged Williamson on November 12, 2007 without just cause. Based on the record before us and guided by our standard of review, we cannot say that reasonable people would have been bound to find a different result.

Affirmed.

NAJAM, J., and BARNES, J., concur.