

In this pro se appeal, Appellant-Claimant, Dawn D. Davis, appeals the denial of her unemployment benefits by the Indiana Department of Workforce Development Unemployment Insurance Review Board (“Review Board”) pursuant to Indiana Code section 22-4-15-1 (2006). We affirm.

ISSUES

Davis raises two issues on appeal, which we restate as (1) whether Davis voluntarily terminated her employment for just cause, and (2) whether the Review Board’s denial of Davis’s request to submit additional evidence was erroneous.

FACTS AND PROCEDURAL HISTORY

Davis was hired by Rossville Consolidated School District to teach special education classes beginning in August of 2004. Davis was a full-time regular teacher whose contract was subject to renewal annually. Davis understood that only the Rossville Consolidated School Board (“School Board”) had the ultimate authority to determine whether or not her contract was renewed each year.

On March 13, 2006, Davis’s supervisor, Principal Chad Dennison, executed an Intensive Assistance Plan, Summative/Final Evaluation Form (“IAP”), which indicated that he planned to recommend that the School Board dismiss Davis when her contract expired at the conclusion of the school year due to many areas of concern regarding her teaching skills. In response to the IAP, Davis asked Principal Dennison if it would be possible for her to resign in lieu of dismissal. He replied that if she chose to resign, her resignation must be submitted by March 24, 2006, or the dismissal procedures would be

initiated.¹ Davis knew that as a part of the dismissal procedure, she would be entitled to an opportunity to speak before the school board before any decision relating to renewal of her contract would be made. Ultimately, Davis chose to resign and on April 3, 2006, submitted her letter of resignation “under duress” to Superintendent Jim Hanna.

After resigning from her employment, Davis filed a claim for unemployment benefits, which was subsequently denied. She appealed this denial to an Administrative Law Judge (“ALJ”). On August 8, 2006, the ALJ held a fact-finding hearing, at which the parties presented conflicting evidence relating to whether Davis voluntarily terminated her employment or was discharged.

After considering the evidence presented by the parties, the ALJ found that Davis had voluntarily resigned from her employment at Rossville Community Schools without good cause and was therefore ineligible to receive unemployment benefits pursuant to Indiana Code section 22-4-15-1(a).² The ALJ found that:

The Claimant voluntary left the employment and was not discharged from employment. The decision for the Claimant’s employment to end was made by the Claimant and not the Employer.... The Claimant was aware or should have been aware that no decision had been made by the Employer to discharge her from the employment.

The Claimant was not informed by the Employer that she would be discharged or that a decision had been made to discharge her from the employment, and instead the Claimant was informed that a decision had been made to initiate the process that could lead to the Claimant’s discharge

¹ Davis testified that this “deadline” was later extended up to and including April 4, 2006.

² Indiana Code section 22-4-15-1(a) states that: “[w]ith respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual’s most recent employment without good cause in connection with the work or who was discharged from the individual’s most recent employment for just cause is ineligible for waiting period or benefit rights.”

by the School Board. The Claimant voluntarily left employment, [she] did not leave the employment in response to being informed that she would be discharged and the Claimant was not discharged, as provided in I.C. 22-4-15-1.

The burden of proof is on the Claimant to present evidence indicating that she voluntarily left employment with good cause in connection with the work. The Claimant submitted her resignation because she had allegedly been informed that she would be discharged but the Claimant had not been informed that she would be discharged. The Claimant was aware or should have been aware that no decision had been made by the Employer to discharge her and that the School Board had not made a decision to discharge her from the employment. An individual's desire to avoid the mere possibility or even the likelihood of discharge at some future time does not justify voluntarily leaving employment, and it cannot be concluded that a reasonably prudent person would have been compelled to leave employment under the same or similar circumstances. Therefore, it is concluded that the Claimant voluntarily left employment without good cause in connection with the work, as provided in I.C. 22-4-15-1.

Appellant's App. at 1-2.

Davis appealed the ALJ's determination to the Review Board and requested a hearing as well as permission to submit additional evidence. On September 25, 2006, the Review Board denied Davis's requests and subsequently affirmed the ALJ's decision by adopting and incorporating the ALJ's Findings of Fact and Conclusions of Law into its order. Additional facts will be presented as necessary. Davis now appeals.

DISCUSSION AND DECISION

Did Davis voluntarily terminate her employment for just cause?

When reviewing a decision of the Review Board, we are bound by the Review Board's decisions as to questions of fact. *City of Indianapolis v. Review Bd. of the Indiana Employment Sec. Div.*, 441 N.E.2d 36, 37 (Ind. Ct. App. 1982). The question of whether an employee voluntarily terminated employment without good cause is a

question of fact to be determined by the Review Board. *Indianapolis Osteopathic Hosp. v. Jones*, 669 N.E.2d 431, 433 (Ind. Ct. App. 1999). Therefore, we will not reweigh the evidence but will consider only the evidence that supports the Review Board's decision. *Indianapolis Osteopathic Hosp.*, 669 N.E.2d at 433. The claimant has the burden of establishing that the voluntary termination of employment was for good cause and must show that the reasons for abandoning employment were such as to impel a reasonably prudent person to terminate employment under the same or similar circumstances and the reasons are objectively related to the employment. *Id.*

Since Davis's question presented before us is limited to the factual question of whether or not she voluntarily terminated her employment without just cause, our review is limited to the evidence that best supports the Review Board's finding. After weighing the evidence presented by the parties, the Review Board found that Davis had voluntarily terminated her employment with Rossville Community Schools and had failed to establish that she did so for just cause, thus making her ineligible to receive unemployment benefits pursuant to Indiana Code section 22-4-15-1(a).

After reviewing the evidence in the light most favorable to the Board's decision, we conclude that the facts introduced at the hearing showed that (1) prior to submitting her resignation, Davis knew that the School Board, not Principal Dennison, would ultimately decide whether or not to renew her contract and that no such decision had been made; (2) Davis knew that there was a procedure that the School Board would follow, allowing her an opportunity to address the Board, before it ultimately decided whether or not to renew her contract; and (3) Davis voluntarily resigned after being informed by

Principal Dennison that he intended to recommend that the School Board not renew her contract. We therefore conclude that the evidence supports the findings made by the ALJ and adopted by the Review Board that Davis voluntarily terminated her employment without just cause and is therefore ineligible for unemployment benefits pursuant to Indiana Code section 22-4-15-1(a).

Was the Review Board’s denial of Davis’ request to submit additional evidence erroneous?

Davis also contends that the Review Board’s denial of her request to submit additional evidence pursuant to Indiana Administrative Code title 646, rule 3-12-8(b) was erroneous. Indiana Administrative Code title 646, rule, 3-12-8(b) states that “the review board *may* hear or procure additional evidence upon ... written application of either party, and for good cause shown, together with a showing of good reason why such additional evidence was not procured and introduced at the hearing before the administrative law judge.” 646 IAC 3-12-8(b) (2006) (emphasis added).

Upon initiation of her appeal before the Review Board, Davis requested permission to submit additional evidence to support her alleged understanding that the decision to terminate her employment was made by Principal Dennison and Superintendent Hanna prior to her resignation and as such, any action by the School Board was merely a formality. The Review Board denied Davis’s request pursuant to the above rule.

After reviewing the facts most supportive of the Review Board’s decision, we conclude that the Review Board’s determination was not erroneous because Davis failed

to make a showing of good reason as to why such additional evidence was not procured and introduced at the hearing before the ALJ, and further because Davis admitted that she had previously “submitted proof of this” before the ALJ. The record shows that the ALJ considered this evidence, but found it to be unpersuasive.³ Therefore the Review Board’s decision to deny the submission of additional evidence on this point was not erroneous.

The judgment of the Review Board is affirmed.

NAJAM, J., and MATHIAS, J., concur.

³ Davis did present evidence to support her alleged belief that the decision to dismiss her had been made prior to her resignation. However, after weighing this evidence, the ALJ found that no such decision had been made. The ALJ further found that Davis knew that the School Board, not Dennison, would ultimately decide whether or not to renew her contract and that the School Board had not yet considered the matter.