2025 IL App (1st) 240380-U

No. 1-24-0380

Order filed March 21, 2025

Fifth Division



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IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

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| EVA TRIPPLETT,<br><br>Plaintiff-Appellant,<br><br>v.<br><br>THE DEPARTMENT OF EMPLOYMENT SECURITY; THE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT SECURITY; THE BOARD OF REVIEW OF THE DEPARTMENT OF EMPLOYMENT SECURITY; and AMAZON.COM SERVICES LLC,<br><br>Defendants,<br><br>(The Department of Employment Security, the Director of the Department of Employment Security and the Board of Review of the Department of Employment Security,<br><br>Defendants-Appellees.) | ) | Appeal from the Circuit Court of Cook County.<br><br>No. 23 L 50204<br><br>Honorable Patrick T. Stanton, Judge, presiding. |

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JUSTICE NAVARRO delivered the judgment of the court.
Presiding Justice Mikva and Justice Mitchell concurred in the judgment.

**ORDER**

¶ 1 *Held*: Because the determination that plaintiff was ineligible for unemployment insurance benefits was not clearly erroneous, we affirm the Board of Review of the Department of Employment Security's denial of benefits.

¶ 2 Plaintiff, Eva Tripplett, appeals *pro se* from an order of the circuit court that affirmed a final administrative decision by defendant, the Board of Review of the Department of Employment Security (Board), who found that she voluntarily left her employment without good cause attributable to her employer, Amazon.com Services LLC (Amazon), resulting in her being ineligible for unemployment insurance benefits. On appeal, Tripplett raises several contentions of error, including that: (1) the Board erred in finding her ineligible for benefits; (2) she was deprived of a fair hearing before the Department of Employment Security (Department); and (3) the Department illegally recouped previously awarded benefit payments to her. For the reasons that follow, we affirm the Board's decision.

¶ 3 I. BACKGROUND

¶ 4 In the summer of 2021, Tripplett worked for Amazon for approximately three weeks as a package handler. That same year, Tripplett worked for several different companies, including FedEx and the store Ross Dress for Less (Ross), where she was laid off around Christmas.[1] A few days later, Tripplett filed a claim for unemployment insurance benefits with the Department. Initially, the Department awarded Tripplett provisional benefits, but, because her employment with Ross was too short to independently qualify for benefits, the Department began an investigation to determine if her employment with any other employers could support her claim for benefits. During this investigation, the Department sent Amazon a notice of claim as a non-chargeable

[1] She unsuccessfully appealed a final administrative decision of the Board based on her employment with FedEx in *Tripplett v. Department of Employment Security*, 2025 IL App (1st) 232230-U.

employer, noting that Amazon was not presently being charged with Tripplett's claim, but could be in the future. Amazon filed a protest on Tripplett's claim, asserting that she "voluntarily resigned job due to personal reason [*sic*]" and there had been "no changes to her contract of hire."

¶ 5 In July 2022, the Department sent Tripplett a notice of interview because there was a question about her eligibility for unemployment insurance benefits. An interviewer called Tripplett twice around the scheduled interview time, but she did not answer her phone. Later that month, a claims adjudicator with the Department found that Tripplett voluntarily resigned from Amazon "for an undisclosed reason," and therefore, she "left work voluntarily without good cause attributable to the employer." The claims adjudicator accordingly denied her claim for benefits.

¶ 6 Tripplett appealed the denial to a Department referee and received a November 2022 telephone hearing. During the hearing, at which Amazon did not appear, Tripplett testified that she left work at Amazon as a package handler, which was located in University Park, Illinois, because the position was "too far" from her residence in Hyde Park in Chicago. Tripplett initially thought she could handle the commute. But, due to the rigors of the commute and job, which included being on her feet for 12 hours a day, she realized she could not. One day, she fell asleep on her way home and subsequently quit.

¶ 7 Following the hearing, the referee found that Tripplett left her position with Amazon after realizing the commute was too far and her shifts were too rigorous despite knowing of both before being hired. Based on these findings, the referee concluded that Tripplett "voluntarily left her job" with Amazon without "good cause attributable to the employer." The referee explained that, because Amazon did not change the conditions of her employment, Tripplett's decision to leave Amazon was "personal." Consequently, the referee affirmed the claims adjudicator's denial.

¶ 8 Thereafter, Tripplett appealed to the Board. In April 2023, the Board found that Tripplett was employed as a package handler for Amazon for approximately 20 days in July 2021 and left her employment voluntarily. The Board noted that Tripplett knew her job location upon being hired by Amazon and that, after beginning her employment, she realized the commute was too long. As a result, the Board asserted that the evidence failed to show there was a substantial breach of the terms of hire by Amazon. Rather, according to the Board, Tripplett "voluntarily left the employ of [Amazon] for personal reasons which was not attributable to [Amazon]." Therefore, the Board affirmed the referee's decision.

¶ 9 Tripplett subsequently sought administrative review of the Board's final administrative decision *pro se* in the circuit court naming the Department, the Director of the Department, the Board (collectively, the State defendants) and Amazon as defendants. During briefing in the circuit court, Tripplett argued that the State defendants violated a regulation that provided her the opportunity to review her case file. She also alleged that the Department acted maliciously by allowing her to obtain benefits initially, then denying her benefits and ultimately recouping the initially awarded benefits. Tripplett asserted that she could not be denied unemployment insurance benefits based on her employment with Amazon because it failed to appear at her hearing. As to the merits of the Board's decision, Tripplett claimed that, while she was aware of the length of the commute to Amazon and her duties, she was unaware of how she would react physically to their combination. Because of the commute, Tripplett alleged that she asked her floor manager if there were any job openings at a location closer to her residence, but the floor manager told her no. Tripplett remarked that she should not have to jeopardize her well-being to remain employed.

¶ 10 Following Tripplett's briefing, the State defendants agreed that they improperly denied her right to view her case file. See 56 Ill. Adm. Code 2720.320 (1987). As a result, the State defendants offered Tripplett the opportunity to have her case remanded for a new hearing after being able to review the entirety of her file. After considering her options, Tripplett elected to move forward with the circuit court proceedings and waived a remand. Following oral argument, the circuit court affirmed the Board's decision. This appeal followed.[2]

¶ 11 II. ANALYSIS

¶ 12 Tripplett raises various contentions of error with the administrative proceedings in her case, beginning with her argument that the Board erred in finding her ineligible for unemployment insurance benefits.

¶ 13 Under the Unemployment Insurance Act (Act) (820 ILCS 405/100 *et seq.* (West 2020)), decisions by the Board are reviewed in accordance with the Administrative Review Law (735 ILCS 5/3-101 (West 2020)). 820 ILCS 405/1100 (West 2020). In an administrative review appeal, we review the decision of the Board, not the decision of the circuit court. *Petrovic v. Department of Employment Security*, 2016 IL 118562, ¶ 22. The Board acts as the trier of fact (*Lojek v. Department of Employment Security*, 2013 IL App (1st) 120679, ¶ 31), and it has the responsibility to determine the credibility of witnesses, weigh the evidence and resolve any conflicts therein. *Hurst v. Department of Employment Security*, 393 Ill. App. 3d 323, 329 (2009). The Boad's factual findings are considered *prima facie* true and correct. *Lojek*, 2013 IL App (1st) 120679, ¶ 31.

¶ 14 While we interpret the Act liberally in favor of awarding unemployment insurance benefits, the claimant bears the burden of proving eligibility for such benefits. *Id.* The Act provides several

[2] Amazon is not a party to this appeal.

ways a claimant may be ineligible for benefits, including when an employee leaves "work voluntarily without good cause attributable to the employing unit." 820 ILCS 405/601A (West 2020). Whether an employee has done so presents a mixed question of law and fact. *Lojek*, 2013 IL App (1st) 120679, ¶ 32. "The question is factual, in part, because it requires considering whether the facts support the Board's finding that plaintiff left work without good cause." *Id.* "The question is also legal, in part, because discharge and constructive voluntary leaving are legal terms and concepts, which require interpretation." *Id.* When we are faced with a mixed question of law and fact, we utilize the clearly erroneous standard of review. *Petrovic*, 2016 IL 118562, ¶ 21. A decision will be deemed clearly erroneous when we are "left with the definite and firm conviction that a mistake has been committed." (Internal quotation marks omitted.) *Id.*

¶ 15 As noted, under the Act, a claimant will be ineligible for unemployment insurance benefits if she leaves "work voluntarily without good cause attributable to the employing unit." 820 ILCS 405/601A (West 2020). In this case, there is no dispute that Tripplett voluntarily left her employment with Amazon. In turn, this case hinges on the elements of "good cause" and "attributable to the employing unit."

¶ 16 "An individual has good cause for leaving work when there is a real and substantial reason that would compel a reasonable person who was genuinely desirous of remaining employed to leave work and the individual has made a reasonable effort to resolve the cause of his/her leaving, when such effort is possible." 56 Ill. Adm. Code § 2840.101(b) (2010). "A substantial and unilateral change in employment may render employment unsuitable so that good cause for voluntary termination is established; but, generally, [a] claimant's dissatisfaction with neither his hours nor his wages constitutes good cause to leave for purposes of entitlement to unemployment

compensation." *Acevedo v. Department of Employment Security*, 324 Ill. App. 3d 768, 772 (2001). For good cause to be attributable to an employing unit, an employee's "reason for leaving work must be within the control of the employing unit." 56 Ill. Adm. Code § 2840.101(c) (2010). This includes when "the employing unit has implemented a substantial change in the conditions of employment." *Id.* At its core, a cause attributable to an employer is when there is an act by the employer for its own benefit over which the employee has no control. *Jaime v. Director of the Department of Employment Security*, 301 Ill. App. 3d 930, 937 (1998). The critical question is whether the employer's conduct caused the employee to leave her employment. *Id.* at 936.

¶ 17 In the instant case, the Board found that Tripplett knew the length of her commute to Amazon upon being hired. Based on this finding, of which there is no evidence to the contrary, Tripplett's misjudgment of her ability to handle that commute cannot be attributable to Amazon. The regulations interpreting section 601A of the Act (820 ILCS 405/601A (West 2020)) provide various examples demonstrating when an employee's reason for leaving her job can or cannot be attributable to her employer. See 56 Ill. Adm. Code § 2840.101(c) (2010). In one example, the regulations highlight an employee who "relocates to a town over 150 miles from" her job causing her commute to balloon to two hours each way and resulting in her resignation. *Id.* § 2840.101(c)(1). The regulations explain that, in this example, the employee's reason for leaving cannot be "attributable to the employing unit because the employing unit had no control over where the individual chose to reside." Similarly, Tripplett chose to reside in the Hyde Park neighborhood of Chicago and knowingly accepted employment with Amazon in University Park. Amazon had no control over where Tripplett lived, and therefore, her reason for leaving due to that commute cannot be attributable to Amazon. See *id.*; *Jaime*, 301 Ill. App. 3d at 936 ("The salient question is

whether the conduct of the employer caused the termination of employment to occur."). Furthermore, as the Board found, Tripplett presented no evidence that Amazon made any changes to her employment conditions. Rather, she became dissatisfied with the existing conditions of her employment, which generally is insufficient to provide good cause to leave. See *Acevedo*, 324 Ill. App. 3d at 772.

¶ 18 In arguing that she had good cause to leave Amazon, Tripplett asserts that Amazon reneged on a promise made to her when hired that, after 30 days of employment, she could be transferred to a location closer to her residence. There is nothing in the record showing that Tripplett presented this evidence during the administrative proceedings. In administrative review, "[n]o new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court." 735 ILCS 5/3-110 (West 2020). Thus, she cannot rely on such evidence now. See *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 532 (2006).

¶ 19 Tripplett additionally argues that she should not be deemed ineligible for unemployment insurance benefits because, although she left Amazon voluntarily, she did so to accept *bona fide* work under section 601B(2) of the Act (820 ILCS 405/601B(2) (West 2020)). Under this section, despite an employee leaving "work voluntarily without good cause attributable to the employing unit," she may still be eligible for benefits if she did so to "accept other bona fide work ***." *Id.* The Act's regulations expound on subsection B(2)'s exception, providing an example of "a skilled metalworker" who "quits his/her job to start his/her own metal working business." 56 Ill. Adm. Code 2840.101(d)(3) (2010). "For a few weeks, the business is quite successful, and he/she earns over his/her weekly benefit amount in each of at least two weeks. However, after a while, business

falls off substantially. He/she files a claim for unemployment insurance benefits. He/she is not subject to disqualification because his/her case falls within the exception provided at Section 601B(2)." *Id.* During the administrative proceedings, Tripplett failed to raise the applicability of this exception, which results in her forfeiting this argument on appeal. See *Arvia v. Madigan*, 209 Ill. 2d 520, 526 (2004). Forfeiture aside, Tripplett presented no evidence that she left Amazon to start a new business like the example in the regulations.

¶ 20 Tripplett further asserts that, under section 601B(5) of the Act (820 ILCS 405/601B(5) (West 2020)), she should not have been deemed ineligible for unemployment insurance benefits because her employment at Amazon was not suitable for her based on considerations to her health and safety. Under section 601B(5), although an employee may have "left work voluntarily without good cause attributable to the employing unit," she may still be eligible for benefits if she accepted that employment "after separation from other work, and the work which he or she left voluntarily would be deemed unsuitable under the provisions of Section 603 [of the Act]." *Id.* In turn, section 603 of the Act (*id.* § 603) provides that, "[i]n determining whether or not any work is suitable for an individual, consideration shall be given to the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence." The purpose of section 601B(5)'s exception is to make individuals eligible for benefits "who, in times of need, take jobs which clearly are beneath their established skill levels and wage-earning capabilities." *Jones v. Department of Labor*, 140 Ill. App. 3d 699, 702 (1986). During the administrative proceedings, Tripplett also failed to raise the applicability of this exception, which results in her forfeiting this argument on appeal. See *Arvia*,

209 Ill. 2d at 526. Forfeiture aside, Tripplett presented no evidence demonstrating her established skill levels and wage-earning capabilities. And because of the absence of this evidentiary record, we could not find her exempt from ineligibility based on section 601B(5).

¶ 21 Under the circumstances of this case, where, as the Board found, Tripplett accepted employment with Amazon knowing the distance from her residence and there being no evidence that Amazon changed any terms or conditions of her employment, we are not left with a definite and firm conviction that the Board made a mistake in finding that she left work voluntarily without good cause attributable to Amazon. Consequently, the Board did not clearly err in denying Tripplett unemployment insurance benefits.

¶ 22 Nevertheless, Tripplett raises various other issues with the process leading to her being denied unemployment insurance benefits, primarily arguing that she did not receive a fair hearing before the Department because it was biased against her. We begin with the presumption that an administrative official was "objective and capable of fairly judging the issues." *Hurst v. Department of Employment Security*, 393 Ill. App. 3d 323, 330 (2009). "Bias or prejudice may only be shown if a disinterested observer might conclude that the official had in some measure adjudged the facts as well as the law of the case in advance of hearing it." *Id.*

¶ 23 Tripplett highlights no evidence that the Department referee had adjudged the facts of her case or the law before her hearing. Additionally, the transcript of the hearing reveals that the referee afforded Tripplett the opportunity to make an opening statement about her case, asked her various questions about the facts of her case and never once indicated a predisposition toward her case. What's more, following the referee's questions, the referee provided Tripplett an opportunity to add anything additional about her separation from Amazon that may have been missed. The

transcript of the hearing demonstrates that the referee allowed Tripplett to fully present her case for unemployment insurance benefits. See *id.* (rejecting a claimant's allegation that he was deprived of a fair hearing before a Department referee due to bias where "[t]he record shows that the referee did not in any way prevent [the claimant] from fully presenting his argument during the hearing").

¶ 24 Although Tripplett claims that the Department altered documentation in her case and deliberately gave her the wrong passcode to attend a mandatory virtual workshop, nothing in the record substantiates these self-serving allegations. Tripplett also argues that she was improperly denied the right to inspect her file during the administrative proceedings. See 56 Ill. Adm. Code 2720.320 (1987) (providing access to a claimant's administrative file upon reasonable notice). However, as discussed, in the circuit court, the State defendants acknowledged violating the regulation, but Tripplett declined the opportunity to have her case remanded for a new hearing after being able to review the entirety of her file. Having declined that opportunity, she cannot now claim there was error in being originally denied the opportunity to inspect her file. See *Gaffney v. Board of Trustees of Orland Fire Protection District*, 2012 IL 110012, ¶ 33. Tripplett further asserts that she was denied a hearing before the claims adjudicator, but neither the Act nor its regulations provide for a hearing before the claims adjudicator. See 820 ILCS 405/701, 702 (West 2020); 56 Ill. Adm. Code 2720.135, 2720.140 (2019). Tripplett also posits that, because Amazon did not appear at the hearing before the referee, she should have received a default ruling in her favor. But the employer's presence at the hearing is immaterial to a claim for unemployment insurance benefits because "[t]he decision to deny benefits is that of the administrative agency, not

the employer." *Walls v. Department of Employment Security*, 2013 IL App (5th) 130069, ¶ 19. Consequently, Tripplett was not denied a fair hearing before the Department.

¶ 25 Lastly, Tripplett contends that the Department wrongly recouped allegedly improper unemployment insurance benefit payments to her by deducting amounts from her state pension and state income tax refund. She highlights various sections of the State Comptroller Act (see 15 ILCS 405/10.05, 10.05a (West 2020)), and argues there is no authorization therein for the Department to recoup payments in such a manner. But Tripplett ignores section 900E of the Act (820 ILCS 405/900E (West 2020))—titled "[r]ecoupment"—which provides that, "when an individual has received any sum as benefits for which he is found to be ineligible, the Director [of the Department] may request the Comptroller [of the State of Illinois] to withhold such sum in accordance with Section 10.05 of the State Comptroller Act ***." In turn, section 10.05 of the State Comptroller Act (15 ILCS 405/10.05 (West 2020) allows the deductions made against Tripplett's state pension and state income tax refund.

¶ 26 III. CONCLUSION

¶ 27 For the foregoing reasons, we affirm the final administrative decision of the Board.

¶ 28 Affirmed.