

2011 IL App (1st) 101755-U
No. 1-10-1755

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MICHAEL CRAWLEY,	)	Appeal from the Circuit Court of
	)	Cook County, Illinois.
Plaintiff-Appellant,	)	
	)	
v.	)	
	)	No. 10 L 50201
ILLINOIS DEPARTMENT OF EMPLOYMENT	)	
SECURITY, DIRECTOR OF DEPARTMENT OF	)	Honorable James C. Murray,
EMPLOYMENT SECURITY, BOARD OF	)	Judge Presiding.
REVIEW and QCSS, INC.,	)	
	)	
Defendants-Appellees.	)	

JUSTICE MURPHY delivered the judgment of the court.
Quinn, P.J., and Steele, J., concurred in the judgment.

ORDER

HELD: The Board's finding that plaintiff was disqualified from receiving unemployment benefits because he voluntarily left work without good cause attributable to his employer was not clearly erroneous; judgment affirmed.

¶ 1 Plaintiff Michael Crawley, *pro se*, appeals from an order of the circuit court of Cook County affirming the decision of the Board of Review of the Illinois Department of Employment Security (Board) denying his claim for unemployment benefits under section 601(A) of the Unemployment Insurance Act (Act). 820 ILCS 405/601(A) (West 2008). He maintains that the Board's determination that he was disqualified from receiving benefits because he voluntarily left work without good cause attributable to his employer, QCSS, Inc., was against the manifest

weight of the evidence.

¶ 2 The record shows that plaintiff was employed as a part-time telemarketer for QCSS from either October 8, 2008, to October 20, 2008, or from December 1, 2008, through December 15, 2008. Plaintiff had been hired and trained by QCSS to perform a specific job. On his final day of employment, plaintiff told his supervisor, Robert Baim, that he no longer wanted to do that particular job and asked to be reassigned. Baim told him that reassignment was not an option and plaintiff left the premises.

¶ 3 Plaintiff then applied for unemployment benefits with the Illinois Department of Employment Security (Department), and QCSS protested the claim. In an interview with the claims adjudicator, plaintiff acknowledged that as he left the premises, he said "OK [*sic*] I'm out of here" to his supervisor, but did so only after he was told that QCSS lost an account and would not need him anymore. A representative of QCSS told the adjudicator that plaintiff "just got up and left" without providing a reason. The claims adjudicator found plaintiff ineligible for benefits because he left work voluntarily without good cause attributable to QCSS, and also noted that QCSS's role in his leaving did not create a "substantially less favorable work situation" or seriously violate the hiring agreement.

¶ 4 Plaintiff appealed and on October 20, 2009, a referee conducted a telephone hearing, in which plaintiff and two representatives from QCSS, including Baim, participated. Plaintiff testified that "[i]t's hard for [him] to answer" whether he had been laid off, discharged, or voluntarily left his employment. He ultimately said that he was "told [he] could leave," but did not know by whom and had "no idea" why he could leave. Plaintiff also acknowledged that he was not employed at QCSS long enough to "know the names of various persons," including his supervisor Baim, and had been looking for another job during the time of his employment.

¶ 5 A human resources representative from QCSS testified that plaintiff left voluntarily. Baim corroborated this testimony and added that plaintiff told him "I'm not doing [this job] anymore" and left.

¶ 6 The referee affirmed the disqualification of benefits entered by the claims adjudicator, finding that plaintiff failed to meet his burden of establishing that he voluntarily left work for good cause attributable to QCSS, and was therefore disqualified from receiving benefits under section 601(A). In doing so, the referee found that the record established that plaintiff had been hired for a particular promotional program and resigned, after deciding during training that he did not like the position. The referee noted the resignation "was a personal decision and is not attributable to [QCSS]."

¶ 7 Plaintiff timely appealed to the Board and appended a written argument, disputing that his leaving was voluntary, and asserting that he left only after being told to leave. He further claimed that QCSS failed to provide proper training or accommodate his requests for proper placement or training.

¶ 8 On review, the Board affirmed the referee's reasoning and decision to deny plaintiff unemployment benefits. The Board also noted that plaintiff did not make a reasonable effort to resolve any employment conflicts before leaving.

¶ 9 Plaintiff, thereafter, filed a complaint for administrative review and the circuit court affirmed the Board's ruling. This appeal followed, where plaintiff challenges the Board's determination that he voluntarily left his employment with QCSS.

¶ 10 We initially observe that plaintiff has failed to adhere to the supreme court rules governing appellate review. Plaintiff has failed to include in his *pro se* brief any citation to the record or a cogent argument with appropriate citation to authority. Ill. Sup. Ct. R. 341(h) (eff. July 1, 2008). Notwithstanding these deficiencies, we may reach the merits of the case because the issues may be ascertained from the record and we are aided by the cogent brief filed by defendants. *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001).

¶ 11 Our review of this administrative proceeding is limited to the final decision of the administrative agency and not that of the circuit court. 735 ILCS 5/3-101 *et seq.* (West 2008);

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820 ILCS 405/1100 (West 2008); *Anderson v. Illinois Department of Professional Regulation*, 348 Ill. App. 3d 554, 560 (2004). Where issues involving mixed questions of law and fact are involved, we will reverse the Board's decision only if it is clearly erroneous. *Manning v. Illinois Department of Employment Security*, 365 Ill. App. 3d 553, 557 (2006).

¶ 12 The purpose of the Act is to benefit individuals who are not at fault for their unemployment. *White v. Illinois Department of Employment Security*, 376 Ill. App. 3d 668, 671 (2007). Section 601(A) of the Act provides that an employee is ineligible to receive benefits if "he has left work voluntarily without good cause attributable" to the employer. 820 ILCS 405/601(A) (West 2008). It is plaintiff's burden to establish his eligibility for unemployment benefits. *White*, 376 Ill. App. 3d at 671.

¶ 13 Here, plaintiff's eligibility turned on whether or not his leaving was voluntary. Plaintiff's explanation was, at best, ambivalent, and although he acknowledged saying, "I'm out of here" as he left, he claimed he did so because he was told he was not needed anymore. The claim's adjudicator's notes and the transcript of the hearing demonstrate that plaintiff made this statement to his supervisor after two weeks of work, and after being told that he could not be assigned to a different job. Plaintiff acknowledged that he was looking for a different job during the time he was employed by QCSS, and further testimony was heard from Baim and a human resources representative that plaintiff walked away from the QCSS premises without explanation.

¶ 14 In determining that plaintiff voluntarily left work without good cause attributable to QCSS, the Board clearly resolved the credibility of the witnesses and conflicts in testimony in favor of the QCSS representatives. It is not our prerogative to usurp that function (*Arroyo v. Doherty*, 296 Ill. App. 3d 839, 845 (1998)) and, given the competent evidence in the record before us, we conclude that the Board's determination that plaintiff was disqualified from benefits under section 601(A) of the Act was not clearly erroneous.

¶ 15 We, thus, affirm the judgment of the circuit court of Cook County to that effect.

¶ 16 Affirmed.

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