SECOND DIVISION
December 30, 2014

No. 1-14-0551

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ORLANDO SHAW, Plaintiff-Appellant, v. ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY; DIRECTOR OF THE ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY; BOARD OF REVIEW; and CC CARE LLC COMMUNITY CARE, Defendants-Appellees.	)	Appeal from the Circuit Court of Cook County. No. 13 L 50891 Honorable Robert Lopez Cepero, Judge Presiding.

PRESIDING JUSTICE SIMON delivered the judgment of the court.
Justices Pierce and Liu concurred in the judgment.

O R D E R

¶ 1 *Held*: The Board of Review's decision that plaintiff was discharged for misconduct in connection with his employment and thus ineligible for unemployment insurance benefits was not clearly erroneous.

¶ 2 Plaintiff, Orlando Shaw, appeals from an order of the circuit court affirming the final administrative decision of defendant, Board of Review of the Illinois Department of Employment Security (Board), that plaintiff was discharged for misconduct in connection with

his work and was thus ineligible to receive unemployment benefits under section 602A of the Illinois Unemployment Insurance Act (Act). 820 ILCS 405/602A (West 2010).

¶ 3 The record shows that plaintiff was employed as a maintenance worker for CC Care LLC Community Care (employer) from July 27, 2005, until he was terminated on March 21, 2013. Plaintiff applied for unemployment benefits with the Illinois Department of Employment Security (IDES), and an IDES claims adjudicator determined that he was eligible.

¶ 4 The employer appealed that determination, and asserted that plaintiff was discharged for misconduct by engaging in insubordination. On May 31, 2013, IDES sent a notice of a telephone hearing to plaintiff and a representative of the employer, advising them that a hearing would take place on June 19, 2013, at 10 a.m., or within one hour thereafter, and that a failure to answer the telephone for that hearing could result in adverse findings. The parties were further advised that any documents to be entered as exhibits at the hearing should be mailed or faxed to the administrative law judge (ALJ) as soon as possible.

¶ 5 About 10 a.m. on the day of the scheduled hearing, the ALJ twice attempted to telephone plaintiff, but he did not answer. The ALJ left two voice messages identifying himself and stating that the call related to his unemployment hearing. The hearing then proceeded in plaintiff's absence.

¶ 6 Karen Hamilton testified that she is the administrator of the employer, and that she discharged plaintiff after an incident that occurred in the lobby of their facility about 3 p.m. on March 21, 2013. At that time, a worker told her that he had left his keys on the roof of the building and that the door to the roof was now locked. Hamilton asked plaintiff to escort the man upstairs and unlock the door for him. Plaintiff began yelling at her and shook his set of about 100

keys six-inches from her face. He said that he was doing something else and refused to do what she had asked. Hamilton felt threatened, and was afraid that plaintiff might hit her.

¶ 7 After a security officer got up to intervene, plaintiff calmed down and agreed to unlock the door. He did so, and when he returned, Hamilton told him that his behavior was unacceptable and discharged him. Hamilton further testified that plaintiff had been written up on two previous occasions for becoming angry and verbally aggressive when asked to complete tasks.

¶ 8 The ALJ determined that plaintiff was disqualified from receiving benefits because he had engaged in employment-related misconduct by yelling and shaking his keys in Hamilton's face, and that he had previously been warned after similar conduct.

¶ 9 Plaintiff appealed the ALJ's decision to the Board of Review. On the appeal form, plaintiff stated that "it did not happen that way[,]" that he had done the task he was asked to perform, that he did not "angrily repl[y] in a loud voice[,]"and that he was not "previously warned[.]" The appeal form contained a notation that if he included information on the form, or any other document, plaintiff must certify that it was served on the opposing party, and explain why he was unable to present it at the hearing. Plaintiff, however, did not seek to add any documents or explain his absence from the telephonic hearing.

¶ 10 The Board reviewed the record, including the transcript of the telephone hearing, and determined that, because plaintiff did not appear at the hearing, or provide an acceptable reason for his failure to do so, the matter should be decided on the existing record. The Board then found the ALJ's decision to be "well-founded and supported by the facts and law" and incorporated it into its decision. Plaintiff subsequently filed a *pro se* complaint for administrative review, and the circuit court affirmed the Board's decision.

¶ 11 In this appeal, plaintiff, *pro se*, challenges the propriety of that judgment. Defendant initially responds that plaintiff has failed to comply with the Illinois Supreme Court Rules governing the content and format of appellate briefs (Ill. S. Ct. R. 341 (eff. Feb. 6, 2013) and 342 (eff. Jan. 1, 2005)), and requests this court to dismiss the appeal. Defendant's observations are well-taken.

¶ 12 Plaintiff has submitted a two-page hand-written appellate brief, which does not conform to the requirements of Rule 341. Ill. S. Ct. R. 341 (eff. Feb. 6, 2013). In fact, the only section that is arguably included in plaintiff's brief is the argument section, however, plaintiff has included no citations to the record or to legal authority in support of his claims. *Bank of America, N.A. v. Kulesza*, 2014 IL App (1st) 132075, ¶ 18.

¶ 13 Most importantly, however, it is extraordinarily difficult to decipher plaintiff's arguments, as they appear to be written in a "stream of consciousness" style, and without the use of complete sentences. In essence, plaintiff contends that the evidence shows no violation of a reasonable rule, and that he is "not guilty." He claims that he never had "a writte [*sic*] up or problem" and that the employer fired the "whole crew all down sized and less pay." Plaintiff then makes "a rescheduling request because [he] did not get a chance to represent [his] case." He also asserts that he "wants to live a successful way not in devastation of a poor choice."

¶ 14 A reviewing court is entitled to have the issues clearly defined and be provided with meaningful argument; it "is not simply a depository into which a party may dump the burden of argument and research." *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56. Appellate briefs which do not satisfy Rule 341 "do not merit consideration on appeal and may be rejected for that reason alone." *Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009).

¶ 15 Defendant's *pro se* status does not excuse him from complying with the supreme court rules governing appellate procedure (*Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010)), and he is expected to meet a minimum standard before this court can adequately review the decision of the circuit court (*Rock Island County v. Boalbey*, 242 Ill. App. 3d 461, 462 (1993)). Under these circumstances, plaintiff's appeal is subject to dismissal. *Marzano v. Department of Employment Security*, 339 Ill. App. 3d 858, 861 (2003). Notwithstanding plaintiff's noncompliance with the rules of appellate procedure, we may consider the appeal where, as here, the issue is apparent, and we have the benefit of a cogent appellee's brief. *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001).

¶ 16 We initially observe that our review is limited to the Board's decision, rather than the decision of the referee or the circuit court. *Vill. Disc. Outlet v. Dep't of Employment Sec.*, 384 Ill. App. 3d 522, 524-25 (2008). In this case, the Board determined that plaintiff was terminated for misconduct in connection with his work and was thus ineligible for unemployment benefits. The question of whether an employee was properly discharged for misconduct under the Act is a mixed question of law and fact, to which we apply the "clearly erroneous" standard of review. *AFM Messenger Serv., Inc. v. Dep't of Employment Sec.*, 198 Ill. 2d 380, 385 (2001); *Sudzus v. Dep't of Employment Sec.*, 393 Ill. App. 3d 814, 826 (2009). An agency's decision will be deemed clearly erroneous only where the record leaves the reviewing court with the definite and firm conviction that a mistake has been made. *AFM Messenger Serv., Inc.*, 198 Ill. 2d at 393 (2001).

¶ 17 Under the Act, an employee is ineligible for unemployment benefits if he was discharged for misconduct connected with his work. 820 ILCS 405/602(A) (West 2010). Misconduct precluding an award of unemployment benefits is established where it is shown that: (1) a

deliberate and willful violation of a work rule or policy occurs, (2) the employer's rule or policy is reasonable, and (3) the violation either harms the employer or was repeated by the employee despite previous warnings. *Manning v. Department of Employment Security*, 365 Ill. App. 3d 553, 557 (2006).

¶ 18 An employee acts willfully when he is aware of a reasonable rule or policy, but disregards it. *Alternative Staffing, Inc. v. Illinois Department of Employment Security*, 2012 IL App (1st) 113332, ¶ 31. A reasonable rule or policy is one that governs the standards of behavior an employer has a right to expect from its employees, appropriately relates to the workplace, does not need to be written or otherwise formalized, and does not need to be proven by direct evidence. *Manning*, 365 Ill. App. 3d at 557. Even without direct evidence, the reviewing court may make a "commonsense realization that certain conduct intentionally and substantially disregards an employer's interest." *Greenlaw v. Department of Employment Security*, 299 Ill. App. 3d 446, 448 (1998)). An employee's insubordination clearly disregards his employer's interests and has been held to constitute misconduct. *Greenlaw*, 299 Ill. App. 3d at 449; *Carroll v. Board of Review*, 132 Ill. App. 3d 686, 692-93 (1985).

¶ 19 In this case, the ALJ made specific findings of fact regarding plaintiff's behavior on March 21, 2013, and the Board incorporated that decision into its finding that plaintiff's actions constituted misconduct. The record shows that after Hamilton asked plaintiff to complete a task, he "angrily replied in a loud voice that he was already doing something else, and shook the keys he held in his hand in the face of [Hamilton]. It appeared to [Hamilton] that [plaintiff] might hit her." The ALJ also noted that plaintiff had been previously warned about such behavior after two "similar *** incidents[.]" Although plaintiff takes issue with these facts, he did not provide evidence to the contrary, attend the hearing, or attempt to show cause for his failure to do so.

Under these circumstances, we conclude that the Board's determinations that plaintiff's insubordinate behavior constituted misconduct, and that he was ineligible to receive unemployment benefits under the Act, were not clearly erroneous.

¶ 20 For the foregoing reasons, we affirm the order of the circuit court of Cook County.

¶ 21 Affirmed.