SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5428-15T2

DOROTHY M. SALAS,

Appellant,

v.

BOARD OF REVIEW,
DEPARTMENT OF LABOR,
and NASH LAW FIRM, LLC,

Respondents.

Submitted December 5, 2017 – Decided January 3, 2018

Before Judges Yannotti and Mawla.

On appeal from the Board of Review, Department of Labor, Docket No. 083,426.

Dorothy M. Salas, appellant pro se.

Christopher S. Porrino, Attorney General, attorney for respondent Board of Review (Melissa H. Raksa, Assistant Attorney General, of counsel; Jana R. DiCosmo, Deputy Attorney General, on the brief).

Respondent Nash Law Firm, LLC, has not filed a brief.

PER CURIAM

Dorothy Salas appeals from a July 15, 2016 final decision by the Board of Review (Board), which found she was disqualified from receiving unemployment compensation benefits because she left her job voluntarily without good cause attributable to the work. We affirm.

Salas began working for Nash Law Firm, LLC (the firm) on September 8, 2015, as a legal secretary. Her last day of work was January 27, 2016. On January 29, 2016, Salas resigned, and in an email stated she could not "do what [was] required of [her] at this job." Her email also stated she was overwhelmed working "a secretary/assistant/receptionist position." Salas then filed a claim for unemployment benefits beginning on January 24, 2016.

On February 25, 2016, a Deputy Director in the Department of Labor (deputy) found Salas was disqualified for benefits. The deputy determined she "voluntarily quit work without good cause attributable to such work." Salas sought review of the deputy's determination by the Appeal Tribunal (tribunal).

The tribunal conducted a telephonic hearing on April 4, 2016. Salas testified she left the firm because:

> The more work that was given to me, because I was taking over the files, I had to work faster and there was a lot of deadlines, that I felt like it was really hard for me and I was rushing around. And because of the area where I worked, up in that attic, getting files, organizing things, I was tripping on the wires

> up there and I was bumping my head. The copier downstairs is underneath a staircase. . . . [B]eing that I was rushing around all the time I bumped my head often on the staircase. I was tripping over wires on the floor in the office downstairs getting into the filing cabinets a lot.

Salas also stated she left because of the odors emanating from a car wash next door, which adversely affected her health. When Salas was asked if she informed either of her supervising attorneys of these complaints she stated she had not.

The tribunal issued a decision finding Salas was disqualified for benefits under N.J.S.A. 43:21-5(a) because she left her position voluntarily and without good cause attributable to the work. The tribunal found Salas' failure to address health and safety concerns with the firm, a medical professional, or the Occupational Safety and Health Administration prior to leaving established she left voluntarily without good cause attributable to the work. The tribunal also stated Salas' decision to resign "was unequivocally without good cause because she had failed to reasonably address [her grievances] with her employer, and as such [Salas] made no reasonable attempt to preserve her employment."

Salas appealed the decision of the tribunal to the Board. The Board affirmed the tribunal's decision "[o]n the basis of the record below."

On appeal, Salas alleges the addition of receptionist duties constituted new work under N.J.A.C. 12:17-11.5, which caused her additional stress, exhaustion, and adversely affected her health. As a result, Salas alleges she met the standard for good cause because "the combined work had unhealthful effects on her including stress, tripping, and exhaustion." Salas also alleges she was not afforded the protections of due process, as required by N.J.A.C. 1:12-14.2(b), because the tribunal did not assist her and there were technical difficulties during the telephonic hearing.

The scope of our review of an administrative agency's final determination is strictly limited. Brady v. Bd. of Review, 152 N.J. 197, 210 (1997). The agency's decision may not be disturbed unless shown to be arbitrary, capricious or unreasonable. Ibid. (citing In re Warren, 117 N.J. 295, 296 (1989)). Therefore, "[i]f the Board's factual findings are supported 'by sufficient credible evidence, courts are obliged to accept them.'" Ibid. (quoting Self v. Bd. of Review, 91 N.J. 453, 459 (1982)).

Salas argues she had good cause for leaving the firm because the work adversely affected her health by aggravating pre-existing injuries she sustained in a car accident. However, Salas must demonstrate "that the environment at her job aggravated her illness." Israel v. Bally's Park Place, Inc., 283 N.J. Super. 1, 5 (App Div. 1995). To meet this burden, Salas must supply a

"medical certification . . . to support a finding of good cause attributable to work." N.J.A.C. 12:17-9.3(d).

As the tribunal noted, Salas did not seek medical advice or inform her supervisors that her job duties were adversely affecting her health. Indeed, the tribunal stated:

> Prior to making the employer first aware of [her] resignation on 01/29/16, the claimant did not make either of the employer's partners aware of any concerns regarding odors or fumes at the workplace, potential tripping hazards, or areas in the work place where the claimant had bumped her head in the past. The claimant also did not make the partners aware of feeling dizzy or ill at the workplace. A medical professional did not suggest, advise, or instruct the claimant to voluntarily leave employment with the above named employer. . . . The claimant did not pursue the aforementioned opportunities because she "didn't [want to] discuss them" with the employer.

Also, Salas has not demonstrated that the addition of receptionist duties was new work. Pertinent to this appeal, "new work" is defined as:

> An offer of work made by an individual's present employer of substantially different duties, terms or conditions of employment from those he or she agreed to perform in his or her existing contract of hire. Examples of factors which may be weighed when considering whether there is a substantial change in the terms or conditions of employment which constitute "new work" include, but are not limited to, the employer's change of hours or shift, job duties, location, salary, benefits,

> work environment and health and safety conditions.
>
> [(N.J.A.C. 12:17-11.5(a)(3))].

Salas claims the additional duties are new work because they required "increased hours, and undisclosed work environment issues and changes." She also claims the new work was not suitable work under N.J.A.C. 12:17-11.2, because her prior experience was as a legal secretary and it imposed additional hours and stress, which adversely affected her health.

Salas' claims are unsupported by the record. The record demonstrates she was informed of the small office setting and the necessity to perform various tasks within the office, including answering the phone. A representative of the firm testified:

> I say this to all candidates who come in, that because we are [a] small office, there's not necessarily . . . a strict dividing line between a receptionist, or legal assistant or paralegal. What we tell people is that in our office at times they're going to be doing tasks that probably fit all of those descriptions.

We are satisfied the tribunal properly determined Salas was disqualified from receiving benefits. The alleged additional duties were not outside of the scope of her position as a legal secretary.

Furthermore, Salas' claim she was not afforded due process under N.J.A.C. 1:12-14.2(b) because the appeals tribunal examiner

did not assist her is without sufficient merit to warrant extended discussion in a written opinion. R. 2:11-3(e)(1)(E). We add only that the appeals tribunal examiner serves as an impartial fact-finder, and therefore may not provide substantive assistance during the hearing. N.J.A.C. 1:12-14.2(a)-(b).

Affirmed.