

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 The Circle, Suite 2
GEORGETOWN, DE 19947

March 7, 2012

Terry L. Neal
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Bridgeville, DE 19933

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**RE: *Terry L. Neal v. Perdue Farms*
 C.A. No. S11A-05-006-ESB
 Letter Opinion**

Date Submitted: December 27, 2011

Dear Mr. Neal and Counsel:

This is my decision on Terry L. Neal's appeal of the Unemployment Insurance Appeal Board's denial of his claim for unemployment benefits. Neal was employed by Perdue Farms as a grain operator from August 24, 2004 to August 12, 2010. Neal pled guilty to a single count of Driving Under the Influence of Alcohol on August 2, 2010. He was sentenced to serve five years in prison, suspended after serving six months in prison for 18 months of probation. Neal requested Perdue to give him a leave of absence, but Perdue denied his request. Perdue instead hired another person to replace him. Neal was released from prison on January 14, 2011. He then filed a claim for unemployment benefits. The Claims Deputy, Appeals Referee and Board all denied Neal's claim, reasoning that pursuant to 19 Del.C. §3314(7) he was ineligible for unemployment benefits because he was

unemployed due to being committed to a penal institution. Neal then filed an appeal to this Court.

STANDARD OF REVIEW

The Supreme Court and this Court repeatedly have emphasized the limited appellate review of the factual findings of an administrative agency. The Court must determine whether the Board's findings and conclusions are free from legal error and supported by substantial evidence in the record.¹ Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.² The appellate court does not weigh the evidence, determine questions of credibility, or make its own factual findings.³ It merely determines if the evidence is legally adequate to support the Board's factual findings.⁴ Absent an error of law, the Board's decision will not be disturbed where there is substantial evidence to support its conclusions.⁵

DISCUSSION

I have concluded that the Board's decision is in accordance with the

¹ *Unemployment Insurance Appeal Board v. Martin*, 431 A.2d 1265, 1266 (Del. 1981).

² *Oceanport Ind. v. Wilmington Stevedores*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del. Super. 1986), *app. dismiss.*, 515 A.2d 397 (Del. 1986)(TABLE).

³ *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

⁴ 29 Del.C. § 10142(d).

⁵ *Dallachiesa v. General Motors Corp.*, 140 A.2d 137 (Del. Super. 1958).

applicable law and supported by substantial evidenced in the record. 19 Del.C. § 3314(7) states that an individual shall be disqualified for benefits “[f]or any week with respect to which the Department finds that the individual has become unemployed by reason of commitment upon conviction and sentencing to any penal institution...” The facts of this case are clear. Neal pled guilty to a single count of Driving Under the Influence of Alcohol and was sentenced to six months in prison. This is why he lost his job. The law in such a situation is similarly clear. If a person is unemployed due to his commitment to a penal institution, then the person is disqualified from the receipt of unemployment benefits.⁶ The Board found that Neal was ineligible for unemployment benefits because his unemployment was due to him being incarcerated. The Board's decision is in accordance with the applicable law and supported by substantial evidence in the record.

CONCLUSION

The Unemployment Insurance Appeal Board's decision is **AFFIRMED**.

IT IS SO ORDERED.

Very truly yours,

/S/ E. Scott Bradley

E. Scott Bradley

cc: Unemployment Insurance Appeal Board

⁶ 19 Del.C. § 3314(7).