

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERESA R. BURWELL,
Appellant,
vs.
STATE OF NEVADA DEPARTMENT
OF EMPLOYMENT, TRAINING AND
REHABILITATION, AND
BALLY'S/PARIS,
Respondents.

No. 51992

FILED

NOV 13 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

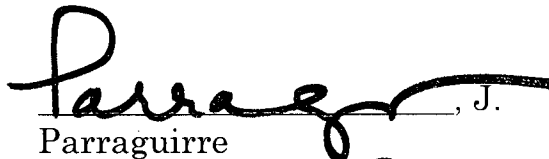
This is an appeal from a district court order denying a petition for judicial review in an unemployment benefits matter. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.


In reviewing an administrative board's actions, this court, like the district court, reviews whether the board acted arbitrarily or capriciously. State, Emp. Security v. Hilton Hotels, 102 Nev. 606, 607, 729 P.2d 497, 498 (1986). This court will not substitute its judgment for that of the board if the board's decision is supported by substantial evidence. Id. at 607-08, 729 P.2d at 498 (defining substantial evidence as "that which 'a reasonable mind might accept as adequate to support a conclusion'" (quoting Richardson v. Perales, 402 U.S. 389 (1971))).


Having reviewed the parties' briefs and the record on appeal, we conclude that the appeals referee's decision is supported by substantial evidence. Hilton Hotels, 102 Nev. at 607-08, 729 P.2d at 498. Specifically, the appeals referee's determination that appellant Teresa R. Burwell's decision to quit her employment without seeking reasonable recourse from her former employer, respondent Bally's/Paris, such as asking for a leave of absence or requesting a transfer to a different

department, did not satisfy NRS 612.380 is properly supported by the record.¹ See, e.g. Korpics v. Unemployment Comp. Bd. of Rev., 833 A.2d 1217, 1220 n.2 (Pa. Commw. Ct. 2003) (requiring a showing that the claimant made an effort to work out other arrangements with his ex-spouse prior to quitting in reviewing whether there was good cause for a claimant to quit employment for child care reasons in an unemployment benefits matter); see also Prickett v. Circuit Science, Inc., 518 N.W.2d 602, 605 (Minn. 1994) (noting that the denial of unemployment benefits for an employee discharged for misconduct due to missing work because of child care issues was unwarranted when, among other things, the employee was in daily contact with the employer regarding attempts to obtain child care). Here, the record supports the appeal referee's finding that Burwell quit her employment without making a sufficient effort to seek accommodation from her employer regarding her sudden, and legitimate, struggles to find child care. Accordingly, as the appeals referee's decision is supported by substantial evidence and is not arbitrary or capricious, and as the district court properly denied the petition for judicial review, we

ORDER the judgment of the district court AFFIRMED.


Parraguirre, J.


Douglas, J.


Pickering, J.

¹While the record contains testimony from Burwell that any attempt to seek recourse from Bally's/Paris would have been futile, this testimony by Burwell does not materially change our decision.

cc: Hon. Elissa F. Cadish, District Judge
Teresa Renita Burwell
J. Thomas Susich
Eighth District Court Clerk