

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LIDIJA SILJAK,

Appellant,

vs.

EMPLOYMENT SECURITY DIVISION,
STATE OF NEVADA; RENEE OLSON,
IN HER CAPACITY AS

ADMINISTRATOR OF THE
EMPLOYMENT SECURITY DIVISION;
KATIE JOHNSON, IN HER CAPACITY
AS CHAIRPERSON OF THE
EMPLOYMENT SECURITY DIVISION
BOARD OF REVIEW; AND

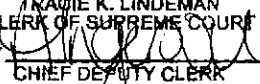
HENDERSON TAXI CAB COMPANY,
BELL CORP., AS EMPLOYER,

Respondents.

No. 68802

FILED

FEB 18 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF 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; Ronald J. Israel, Judge.

In the underlying proceedings, the appeals officer affirmed the denial of benefits to appellant and the Board of Review adopted the appeals officer's decision based on the conclusion that appellant had voluntarily quit her job without good cause. See NRS 612.380(1)(a) (providing that leaving previous employment without good cause makes a person ineligible for unemployment benefits). The district court denied appellant's petition for judicial review, and this appeal followed.

As an initial matter, we conclude that the district court did not abuse its discretion by denying appellant's motion to strike respondents' answer to the petition and the administrative record filed in that court. In

particular, the answer was timely submitted pursuant to NRCP 12(a)(3). And, although the record was arguably seven days late under the version of NRS 233B.131(1) in effect when the record was submitted, the district court had discretion to permit the late filing.¹ Moreover, nothing in the record demonstrates that the district court abused its discretion by allowing the late filing in this case.


As to the merits of this appeal, we conclude that the Board's decision was supported by substantial evidence, namely, the testimony of two employees of appellant's former employer. *See Clark Cty. Sch. Dist. v. Bundley*, 122 Nev. 1440, 1444-45, 148 P.3d 750, 754 (2006) (providing that, in an unemployment compensation matter, this court reviews the record to determine whether the Board of Review abused its discretion by acting arbitrarily or capriciously and that the Board's decision is generally reviewed to determine whether it is supported by substantial evidence). And while appellant argues that this testimony was falsified, granting appellant relief on this basis would require this court to reconsider the credibility of those witnesses and the weight that should have been given to that testimony, which we are not permitted to do. *See id.* at 1445, 148 P.3d at 754 (explaining that the Board of Review's "fact-based legal conclusions with regard to whether a person is entitled to unemployment compensation are entitled to deference" because "[i]n no case may [the

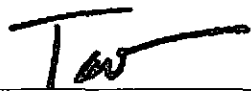
¹At the time that the record was submitted, NRS 233B.131(1) gave respondents 30 days from service of the petition to file the record, but the statute was amended effective July 1, 2015, to provide an agency with 45 days to file the record in an unemployment compensation matter. *See* 2015 Nev. Stat., ch. 160, § 10, at 710. Both versions of the statute provide that the record is due within the allotted time "or such time as is allowed by the court."


appellate court] substitute [its] judgment for that of the Board as to the weight of the evidence"); *see also Nellis Motors v. State, Dep't of Motor Vehicles*, 124 Nev. 1263, 1269-70, 197 P.3d 1061, 1066 (2008) (explaining that the appellate court will not reweigh evidence or reassess witness credibility on appeal).

Thus, as the Board's decision was based on substantial evidence and was not otherwise arbitrary or capricious, we affirm the order of the district court denying the petition for judicial review.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Ronald J. Israel, District Judge
Lidija Siljak
State of Nevada/DETR
Eighth District Court Clerk