


IN THE SUPREME COURT OF THE STATE OF NEVADA

DARTTON A. DROGIN,
Appellant,
vs.
DEPARTMENT OF EMPLOYMENT,
TRAINING AND REHABILITATION,
EMPLOYMENT SECURITY DIVISION,
Respondent.

No. 39558

FILED

MAR 18 2005

ANNETTE M. BLOOM
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying a petition for judicial review in an unemployment compensation matter. Eighth Judicial District Court, Clark County; Ronald D. Parraguirre, Judge.

Appellant Dartton A. Drogin resigned from his position at the Washoe County Recorder's Office in May 2001 in order to relocate to Las Vegas to care for his ailing mother. He subsequently submitted a claim for unemployment benefits. Respondent Nevada Department of Employment, Training and Rehabilitation, Employment Security Division (NESD), denied Drogin's claim based on his voluntary departure from the workforce without good cause. Drogin administratively appealed, and an appeals referee affirmed the denial of unemployment benefits, concluding that Drogin had failed to present evidence or otherwise demonstrate a medical need to attend to his mother, and that Drogin was therefore not

eligible for unemployment benefits because he voluntarily quit work for personal reasons without statutory good cause.¹

Drogin filed a petition for judicial review of the appeals referee's decision in the district court. He later submitted to the district court a physician's letter, dated March 3, 2002, regarding his mother's medical needs. Nevertheless, the district court denied his petition for judicial review, and Drogin timely appealed.

In the context of an appeal from a district court order denying a petition for judicial review of an administrative decision, this court, like the district court, examines the administrative decision for clear error or arbitrary abuse of discretion.² The appeals referee's decision will not be disturbed if it is legally sound and supported by substantial evidence.³ Our review, and the district court's review, is limited to the record properly before the agency and the district court.⁴

Having reviewed the administrative and district court records, we conclude that the appeals referee's determination that Drogin failed to sufficiently demonstrate good cause for his voluntary resignation and, therefore, his entitlement to unemployment benefits under NRS

¹See NRS 612.380(1)(a).

²Construction Indus. v. Chalue, 119 Nev. 348, 352, 74 P.3d 595, 597 (2003).

³Ayala v. Caesars Palace, 119 Nev. 232, 235, 71 P.3d 490, 491-92 (2003).

⁴Id. at 235, 71 P.3d at 491; Carson Ready Mix v. First Nat'l Bk., 97 Nev. 474, 635 P.2d 276 (1981).

612.380(1), was legally sound and based on substantial evidence.⁵ Further, we conclude that the district court did not improperly “suppress” the additional evidence submitted by Drogin.⁶ Finally, we conclude that Drogin’s concerns regarding the propriety of NESD’s ability to deny benefits even when the employer does not contest the claim are without merit, as it is NESD and not the employer that is legislatively charged with administering unemployment compensation claims.⁷ Accordingly, we

⁵We note that, in addition to failing to provide medical evidence of his mother’s heart condition and need for his presence during the administrative proceedings, Drogin testified that his mother’s stomach condition had stabilized, that she was able to travel without his assistance, and that he had planned to obtain work immediately upon his relocation to Las Vegas. Under these circumstances, the appeals referee’s decision is supported by substantial evidence. See, e.g., In re Lugo, 741 N.Y.S.2d 611, 612 (App. Div. 2002); In re Stewart, 711 N.Y.S.2d 615, 615-16 (App. Div. 2000); In re Economy, 648 N.Y.S.2d 187, 188 (App. Div. 1996); Rosario v. Catherwood, 283 N.Y.S.2d 694, 695 (App. Div. 1967); Solomon v. Catherwood, 279 N.Y.S.2d 989, 990-91 (App. Div. 1967).

⁶See 233B.131(2) (providing that the district court may remand to an agency for consideration of additional evidence only upon the petitioner’s demonstration of good reasons for not submitting the additional evidence during the administrative proceedings); Carson City v. Lepire, 112 Nev. 363, 914 P.2d 631 (1996) (recognizing district court error when it failed to follow NRS 233B.121(2) procedure and directly considered additional evidence).

⁷See NRS 612.220 (regarding NESD’s powers); NRS 612.485(1), NRS 612.515, NRS 612.530(1), NRS 233B.130, and NRS 233B.150 (regarding appeal rights); Scott v. Nev. Employ. Sec., 70 Nev. 555, 557-58, 278 P.2d 602, 603 (1954) (“[U]nemployment benefits have their roots in legislative enactments; they are not inherent rights of the inhabitants of the state. Hence, the legislature may lay down any reasonable and nondiscriminatory conditions it may see fit concerning eligibility and procedure.”).

affirm the district court's order denying Drogin's petition for judicial review.

It is so ORDERED.

Becker, C.J.
Becker

Maupin, J.
Maupin

Douglas, J.
Douglas

cc: Eighth Judicial District Court Dept. 3, District Judge
Dartton A. Drogin
Crowell Susich Owen & Tackes
Clark County Clerk