

DISTRICT OF COLUMBIA COURT OF APPEALS

Brown v. Hawk One Security, Inc.

3 A.3d 1142 (D.C. 2010) · No. 08-AA-927 · Decided September 9, 2010

SUMMARY

The District of Columbia Court of Appeals affirmed the denial of Angel Brown's unemployment benefits after she was terminated for deliberately provoking a physical confrontation with another on-duty security officer at a high school. The court held that substantial evidence supported the Office of Administrative Hearings' finding that Brown's conduct constituted gross misconduct under the applicable unemployment compensation regulations.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Blackburne-Rigsby, Associate Judge; Reid, Associate Judge; Glickman, Associate Judge
JURISDICTION	District of Columbia
DECIDED	September 9, 2010
DOCKET	08-AA-927
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of a final order of the D.C. Office of Administrative Hearings affirming the D.C. Department of Employment Services' denial of unemployment benefits.
STANDARD OF REVIEW	The court has a limited function: determining whether substantial evidence supports the OAH decision. The court must affirm when OAH made findings on each materially contested factual issue, substantial evidence supports each finding, and the conclusions flow rationally from the findings.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Angel Brown v. Hawk One Security, Inc.

TOPICS

unemployment benefits

administrative law

judicial review of agency action

standard of review

appellate procedure

PRACTICE AREAS

employment law

unemployment benefits

administrative law

QUESTIONS PRESENTED

1. Whether substantial evidence supported the OAH's determination that Brown's conduct constituted gross misconduct warranting denial of unemployment benefits.
2. Whether OAH improperly characterized Brown's conduct as gross misconduct when Brown did not physically touch or attempt to touch Sergeant Williams and was struck by Williams.
3. Whether OAH improperly based the misconduct determination on Brown's failure to walk away rather than on the employer's stated reason for discharge.

HOLDINGS

1. Substantial evidence supported OAH's determination that Brown engaged in gross misconduct by deliberately provoking a physical confrontation with another uniformed, on-duty security officer in a school hallway, threatening the employer's interests in maintaining peace and setting a good example for students and disregarding standards of behavior the employer was entitled to expect.
2. Brown's lack of physical contact with Williams did not preclude a finding of gross misconduct because OAH properly relied on Brown's own deliberate conduct preceding the physical contact, including taunting and provoking the confrontation.
3. OAH's determination was properly based on the reason specified by the employer for the discharge because its discussion of Brown's failure to walk away explained why her conduct constituted the fighting and provocation underlying the discharge.

KEY QUOTATIONS

"In this appeal, petitioner Angel Brown challenges a final order (the "Order") from the D.C. Office of Administrative Hearings ("OAH"), which affirmed a determination by the D.C. Department of Employment Services ("DOES") to deny petitioner's claim for unemployment benefits." (3 A.3d at 1144)

"Brown was terminated in this case because she "deliberately provoked" a physical confrontation with another uniformed, on-duty security guard in a school hallway." (3 A.3d at 1147)

"In sum, while the conduct in Doyle and Odeniran was not sufficiently egregious to constitute "gross misconduct," we have no doubt that petitioner's conduct here falls squarely within that category." (3 A.3d at 1148)

FACTUAL BACKGROUND

Brown worked as a Special Police Officer at Ballou Senior High School and received employer-sponsored training in conflict resolution and public relations. While Brown and another uniformed, on-duty officer, Sergeant Diane Williams, were at the school, Williams confronted Brown after a dispute involving Brown's comments about a student. Although Williams struck Brown first, Brown followed Williams, taunted her by

repeatedly asking who she was going to smack, and thereby deliberately provoked a physical confrontation during school hours. Both officers were terminated, and Brown was denied unemployment benefits.

PROCEDURAL HISTORY

The DOES claims examiner denied Brown's unemployment-compensation claim after finding that she was discharged for fighting on the job. The OAH affirmed, finding that Brown's conduct constituted gross misconduct under two independent theories. Brown petitioned the District of Columbia Court of Appeals for review, arguing that the OAH's conclusion was unsupported by substantial evidence and improperly characterized her conduct.

DISPOSITION

affirmed

CASES CITED

- Larry v. National Rehabilitation Hospital, 973 A.2d 180 (D.C. 2009)
- Hegwood v. Chinatown CVS, Inc., 954 A.2d 410 (D.C. 2008)
- Doyle v. NAI Personnel, Inc., 991 A.2d 1181 (D.C. 2010)
- Odeniran v. Hanley Wood, LLC, 985 A.2d 421 (D.C. 2009)

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