

DISTRICT OF COLUMBIA COURT OF APPEALS

Gilmore v. Atlantic Services Group

17 A.3d 558 (D.C. 2011) · No. No. 09-AA-488 · Decided April 7, 2011

SUMMARY

The District of Columbia Court of Appeals reviewed an Office of Administrative Hearings decision denying Taj Gilmore unemployment benefits after his separation from Atlantic Services Group. The court held that the agency lacked adequate findings and substantial evidence to support disqualification based on misconduct or voluntary departure. It reversed the decision and remanded for further proceedings.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	REID, Associate Judge; FISHER, Associate Judge; FERREN, Senior Judge
JURISDICTION	District of Columbia
DECIDED	April 7, 2011
DOCKET	No. 09-AA-488
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for review of an Office of Administrative Hearings decision upholding the Department of Employment Services' denial of unemployment insurance benefits.
STANDARD OF REVIEW	The court was required to affirm if OAH made findings on each materially contested factual issue, substantial evidence supported each finding, and the conclusions flowed rationally from the findings. Factual findings supported by substantial evidence on the record as a whole are binding, while legal rulings are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Taj Gilmore v. Atlantic Services Group

TOPICS

- unemployment benefits
- judicial review of agency action
- administrative law
- standard of review
- appellate procedure

PRACTICE AREAS

administrative law

employment law

unemployment benefits

appellate procedure

QUESTIONS PRESENTED

1. Whether OAH made sufficient factual findings and applied the correct legal standards in determining that Gilmore was disqualified from unemployment benefits for misconduct.
2. Whether substantial evidence supported a determination that Gilmore voluntarily left his employment without good cause connected with the work.
3. Whether OAH adequately determined the employer's actual reason for separating Gilmore from employment and whether any alleged misconduct was gross or simple misconduct.

HOLDINGS

1. OAH's determination that Gilmore was disqualified for misconduct could not be sustained because OAH did not identify whether the alleged misconduct was gross or simple, did not make findings on the material factual issues relevant to either form of misconduct, and did not establish that its conclusions flowed rationally from its findings.
2. If OAH determines on remand that Gilmore engaged in gross misconduct, it must make findings supported by substantial evidence that his conduct was deliberate or willful.
3. If the misconduct determination rests on violation of an employer rule, OAH must determine whether the rule was known to the employee, reasonable, and consistently enforced.
4. The record did not contain substantial evidence supporting a conclusion that Gilmore voluntarily left his job without good cause connected with the work.

KEY QUOTATIONS

"To prove that an employee is guilty of gross misconduct, the employer must prove not only that [the employee] was absent without authorization, but also that the absences were willful and deliberate." (564)

"A determination that Mr. Gilmore voluntarily left his job is not supported by substantial evidence." (565)

FACTUAL BACKGROUND

Gilmore worked as a bus driver for Atlantic Services Group from approximately January through June or July 2008. After a court hearing, he was incarcerated for twelve days and did not personally return to work; he testified that he notified his fiancée and asked her to inform his supervisor about the incarceration. The employer's evidence was unclear regarding the applicable leave and job-abandonment policies, whether Gilmore had been fired, and whether his communications through his fiancée indicated an intent to return. No employer policy or job-abandonment letter was admitted into evidence.

PROCEDURAL HISTORY

The Department of Employment Services denied Gilmore unemployment benefits, determining that he had voluntarily left his employment without good cause after abandoning his job. Gilmore appealed to the Office of

Administrative Hearings. OAH affirmed on different grounds, finding that he had committed misconduct and had voluntarily left his employment. The District of Columbia Court of Appeals reversed and remanded for further findings and proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

OAH must conduct further proceedings and make findings consistent with the opinion, including identifying whether any misconduct was gross or simple, determining the employer's actual reason for the separation, addressing the material factual disputes concerning Gilmore's intent and communications, and, if applicable, determining whether any employer rule was known, reasonable, and consistently enforced.

CASES CITED

- Taylor v. District of Columbia Department of Employment Services, 741 A.2d 1048, 1049 (D.C. 1999)
- Cruz v. District of Columbia Department of Employment Services, 633 A.2d 66, 69-70 (D.C. 1993)
- Gomillion v. District of Columbia Department of Employment Services, 447 A.2d 449, 451 (D.C. 1982)
- Rodriguez v. Filene's Basement Inc., 905 A.2d 177, 180-81 (D.C. 2006)
- McKinley v. District of Columbia Department of Employment Services, 696 A.2d 1377, 1383 (D.C. 1997)
- Brown v. Corrections Corp. of America, 942 A.2d 1122, 1125 (D.C. 2008)
- Colton v. District of Columbia Department of Employment Services, 484 A.2d 550, 552 (D.C. 1984)
- Odeniran v. Hanley Wood, LLC, 985 A.2d 421, 424-27 (D.C. 2009)
- Washington Times v. District of Columbia Department of Employment Services, 724 A.2d 1212, 1220 (D.C. 1998)
- Morris v. United States Environmental Protection Agency, 975 A.2d 176, 181-84 (D.C. 2009)
- Amegashie v. CCA of Tennessee, 957 A.2d 584, 587-88 (D.C. 2008)
- Doyle v. NAI Personnel, Inc., 991 A.2d 1181, 1183 (D.C. 2010)
- Shepherd v. District of Columbia Department of Employment Services, 514 A.2d 1184, 1186 (D.C. 1986)
- Bowman-Cook v. Washington Metropolitan Area Transit Authority, 16 A.3d 130, 135 (D.C. 2011)
- Chase v. District of Columbia Department of Employment Services, 804 A.2d 1119, 1124 n.12 (D.C. 2002)
- McCaskill v. District of Columbia Department of Employment Services, 572 A.2d 443, 446 (D.C. 1990)
- Hegwood v. Chinatown CVS, Inc., 954 A.2d 410, 412 (D.C. 2008)
- Smithsonian Institution v. District of Columbia Department of Employment Services, 514 A.2d 1191, 1194 (D.C. 1986)
- 2101 Wisconsin Associates v. District of Columbia Department of Employment Services, 586 A.2d 1221, 1224 (D.C. 1991)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/district-of-columbia-district-of-columbia-court-of-appeals/2011/gilmore-v-atlantic-services-group-d7d9hd8d>