

SUPREME COURT OF RHODE ISLAND

Foster-Glocester Regional School Committee v. Board of Review,
Department of Labor and Training

854 A.2d 1008 (R.I. 2004) · No. No. 2002-381-M.P. · Decided July 16, 2004

SUMMARY

The Rhode Island Supreme Court reviewed a decision affirming unemployment benefits awarded to a schoolteacher terminated for inappropriate conduct involving female students. The court held that the case was reviewable despite mootness, that the confirmed arbitration award had collateral-estoppel effect, and that the Board of Review abused its discretion by giving no evidentiary weight to the arbitration transcripts. The court quashed the District Court's judgment and directed that the unemployment-benefits award be vacated.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Suttell, J.; Williams, C.J.; Flanders, J.; Goldberg, J.
JURISDICTION	Rhode Island
DECIDED	July 16, 2004
DOCKET	No. 2002-381-M.P.
DISPOSITION	quashed
PROCEDURAL POSTURE	The school committee petitioned for a writ of certiorari to review a District Court judgment affirming the Board of Review's award of unemployment benefits to Michael Bailey. The Supreme Court granted the writ, reviewed the mootness, collateral-estoppel, and evidentiary issues, and quashed the District Court judgment.
STANDARD OF REVIEW	On review under the Administrative Procedures Act and by certiorari, the Supreme Court reviewed questions of law and examined the record as a whole to determine whether legally competent evidence supported the trial court's decision or whether the trial court committed an error of law. It did not reweigh evidence or substitute its judgment for the agency's on witness credibility or factual weight. Agency action could be reversed for, among other things, error of law, clear error, arbitrariness, capriciousness, or abuse of discretion.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; precedential.

PARTIES

Foster-Glocester Regional School Committee v. Board of Review,
Department of Labor and Training, Michael Bailey

TOPICS

unemployment benefits

administrative law

hearsay

appellate procedure

employment law

PRACTICE AREAS

unemployment benefits

administrative law

employment law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court properly deemed the school committee's challenge to the unemployment-benefits award moot after Bailey received the benefits.
2. Whether the confirmed arbitration award and its factual findings had collateral-estoppel effect in the unemployment-benefits proceeding.
3. Whether the Board of Review abused its discretion by refusing to give any evidentiary weight to the arbitration hearing transcripts after admitting them into evidence.

HOLDINGS

1. The appeal was reviewable despite payment of Bailey's unemployment benefits because the evidentiary issue was of extreme public importance and capable of repetition while evading judicial review.
2. The confirmed arbitration award had collateral-estoppel effect in the unemployment-benefits proceeding because the parties or their privies had a full and fair opportunity to litigate, the award became a final judgment, and the factual issues were identical.
3. The arbitrator's finding that Bailey engaged in inappropriate physical touching and verbal communications with students established proved misconduct that, as a matter of law, constituted deliberate conduct in willful disregard of the employer's interest and barred unemployment compensation under § 28-44-18.
4. After admitting the arbitration transcript into evidence, the Board could not refuse to consider it solely because it was hearsay and lacked corroborating direct evidence; that refusal was arbitrary and capricious and an abuse of discretion.

KEY QUOTATIONS

“Even if the board could not have given the arbitration award collateral-estoppel effect because the Superior Court had yet to confirm the award, after admitting the transcript into evidence, the board was at least required to consider the testimony of the various witnesses at the arbitration hearing, determine what weight such testimony should be accorded, and make its own findings of fact.” (854 A.2d at 1021)

“The former testimony and the arbitrator's findings were entitled to probative force, however.” (854 A.2d at 1021)

FACTUAL BACKGROUND

Michael Bailey, a physical education teacher employed by the Foster-Glocester Regional School Committee for approximately sixteen years, was terminated for inappropriate physical contact and verbal communications involving four female students. In a subsequent arbitration under the collective bargaining agreement, the arbitrator found by clear and convincing evidence that Bailey engaged in the charged conduct and that the school committee had just cause to terminate him; the Superior Court later confirmed the award. In Bailey's unemployment-benefits proceeding, the Board of Review relied on the arbitration transcript but refused to give it weight because it was uncorroborated hearsay, and awarded benefits.

PROCEDURAL HISTORY

Bailey was terminated after an arbitrator found clear and convincing evidence of inappropriate conduct and just cause for termination. While arbitration was pending, Bailey obtained unemployment benefits from the Department of Labor and Training; the referee and Board of Review affirmed the award. The District Court remanded for consideration of the arbitration transcript, after which the Board readopted its benefits decision. The District Court then held the appeal moot and upheld the Board's decision as not clearly erroneous or arbitrary and capricious. The Supreme Court granted certiorari and ordered entry of judgment for the school committee.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The record was remanded to the District Court with the Supreme Court's decision endorsed thereon for entry of judgment in favor of the school committee. The District Court was instructed to apply collateral estoppel to the arbitrator's factual findings and vacate the Board's award of unemployment benefits.

CASES CITED

- Turner v. Department of Employment Security, Board of Review, 479 A.2d 740, 742 (R.I. 1984)
- Powell v. Department of Employment Security, Board of Review, 477 A.2d 93, 95-96 (R.I. 1984)
- Rhode Island Temps, Inc. v. Department of Labor and Training, Board of Review, 749 A.2d 1121, 1124-25 (R.I. 2000) (per curiam)
- Wayne Distributing Co. v. Rhode Island Commission for Human Rights, 673 A.2d 457, 459 (R.I. 1996)
- Center for Behavioral Health, Rhode Island, Inc. v. Barros, 710 A.2d 680, 684 (R.I. 1998)
- Tierney v. Department of Human Services, 793 A.2d 210, 213 (R.I. 2002)
- Arnold v. Rhode Island Department of Labor and Training Board of Review, 822 A.2d 164, 167 (R.I. 2003)
- In re New England Gas Co., 842 A.2d 545, 553-54 (R.I. 2004)
- Cicilline v. Almond, 809 A.2d 1101, 1105-06 (R.I. 2002) (per curiam)
- George v. Fadiani, 772 A.2d 1065, 1067 (R.I. 2001) (per curiam)
- Casco Indemnity Co. v. O'Connor, 755 A.2d 779, 782 (R.I. 2000)

- Lee v. Rhode Island Council 94, A.F.S.C.M.E., AFL-CIO, Local 186, 796 A.2d 1080, 1084 (R.I. 2002) (per curiam)
- Wilkinson v. State Crime Laboratory Commission, 788 A.2d 1129, 1141 (R.I. 2002)
- Mulholland Construction Co. v. Lee Pare & Associates, Inc., 576 A.2d 1236, 1237 (R.I. 1990)
- Paola v. Commercial Union Assurance Companies, 461 A.2d 935, 937 (R.I. 1983)
- Bailey v. Metropolitan Property and Liability Insurance Co., 24 Mass. App. Ct. 34, 505 N.E.2d 908, 910-11 (1987)
- Graziano v. Rhode Island State Lottery Commission, 810 A.2d 215, 220-21 (R.I. 2002)
- In re Guimaraes, 68 N.Y.2d 989, 510 N.Y.S.2d 558, 503 N.E.2d 113, 115 (1986) (mem.)
- In re Ranni, 58 N.Y.2d 715, 458 N.Y.S.2d 910, 444 N.E.2d 1328, 1330 (1982) (mem.)
- E.W. Audet & Sons, Inc. v. Fireman's Fund Insurance Co. of Newark, New Jersey, 635 A.2d 1181, 1186, 1188 (R.I. 1994)
- St. Pius X Parish Corp. v. Murray, 557 A.2d 1214, 1217 (R.I. 1989)
- Technic, Inc. v. Rhode Island Department of Employment and Training, 669 A.2d 1156, 1158 (R.I. 1995)
- DePasquale v. Harrington, 599 A.2d 314, 315-16 (R.I. 1991)
- Lockheed Martin Corp. v. Unemployment Appeals Commission, 876 So. 2d 31, 33 (Fla. Dist. Ct. App. 2004)
- In re Ferro, 283 A.D.2d 828, 725 N.Y.S.2d 721, 721 (N.Y. App. Div. 2001)
- Autoliv ASP, Inc. v. Department of Workforce Services, 29 P.3d 7, 12-13 (Utah Ct. App. 2001)
- Consolidated Edison Co. v. NLRB, 305 U.S. 197, 230 (1938)