

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Christine A. Stefanko v. W. Va. Bureau of Employment Programs, Board of Review

Stefanko · No. 12-0773 · Decided June 28, 2013

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the denial of unemployment compensation benefits to Christine A. Stefanko after she was terminated for violating a Last Chance Agreement following an unexcused absence. The court held that the circuit court properly reviewed and affirmed the Board of Review's decision and adopted the circuit court's findings and conclusions.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	June 28, 2013
DOCKET	12-0773
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Kanawha County Circuit Court's order affirming an administrative decision denying her unemployment compensation benefits.
STANDARD OF REVIEW	The Board of Review's factual findings receive substantial deference and will not be disturbed unless clearly or plainly wrong; conclusions of law are reviewed de novo.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Christine A. Stefanko v. West Virginia Bureau of Employment Programs, Board of Review, Mike Jones, James Dillon, Carole Bloom, Russell Frye, Quad Graphics, Inc.

TOPICS

unemployment benefits

judicial review of agency action

administrative law

standard of review

appellate procedure

PRACTICE AREAS

employment law

administrative law

unemployment benefits

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court erred by affirming the administrative law judge without determining whether the Last Chance Agreement was a qualifying provision under West Virginia law.
2. Whether the circuit court erred by affirming the denial of unemployment benefits without applying the rules of liberality afforded to unemployment compensation claimants.
3. Whether the circuit court properly reviewed and affirmed the Board of Review's determination that Stefanko was disqualified from benefits for gross misconduct.

HOLDINGS

1. The circuit court did not improperly review the Board's decision and did not err in affirming the denial of unemployment compensation benefits.
2. A reviewing court gives substantial deference to the Board of Review's factual findings and reviews legal questions de novo; factual findings should not be set aside unless clearly or plainly wrong.

KEY QUOTATIONS

“The findings of fact of the Board of Review of the West Virginia [Bureau of Employment Programs] are entitled to substantial deference unless a reviewing court believes the findings are clearly wrong. If the question on review is one purely of law, no deference is given and the standard of judicial review by the court is de novo.” (2)

“Findings of fact by the Board of Review of the West Virginia Department of Employment Security, in an unemployment compensation case, should not be set aside unless such findings are plainly wrong; however, the plainly wrong doctrine does not apply to conclusions of law by the Board of Review.” (2)

FACTUAL BACKGROUND

Stefanko worked for Quad Graphics as an inkjet operator from January 23, 2001, until her termination on January 11, 2010. After receiving verbal and written attendance warnings, she signed a Last Chance Agreement on December 21, 2009, providing for immediate termination if she violated company policy during the next 120 days. She failed to report to work on January 8, 2010, and was terminated, after which the unemployment authorities denied her benefits for gross misconduct.

PROCEDURAL HISTORY

After Quad Graphics terminated Stefanko for violating a Last Chance Agreement following an additional absence, a WorkForce West Virginia deputy disqualified her from benefits for gross misconduct under West

Virginia Code § 21A-6-3(2). An administrative law judge affirmed, and the Board of Review affirmed and adopted the ALJ's decision. The Kanawha County Circuit Court affirmed the Board, and Stefanko appealed to the Supreme Court of Appeals of West Virginia.

DISPOSITION

affirmed

CASES CITED

- Adkins v. Gatson, 192 W. Va. 561, 453 S.E.2d 395 (1994)
- Kisamore v. Rutledge, 166 W. Va. 675, 276 S.E.2d 821 (1981)

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