Circuit Court for Prince George's County
Case No.: C-16-CV-22-000832

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 522

September Term, 2023

IN THE MATTER OF BRANDON PRESCO

Reed,
Albright,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: May 22, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

After quitting his job, appellant, Brandon Presco, filed a claim for unemployment insurance benefits with the Maryland Department of Labor ("Department"), appellee. The Department determined that Mr. Presco did not have good cause or a valid circumstance for quitting, and thus, that he was not entitled to unemployment insurance benefits under Md. Code Ann., Labor and Employment ("Lab. & Empl.") § 8-1001. After Mr. Presco filed a petition for judicial review, the Circuit Court for Prince George's County affirmed the Department's decision, and Mr. Presco timely noted the instant appeal.

On appeal, Mr. Presco asserts that the Department incorrectly determined that he did not have good cause or a valid circumstance for quitting, and thus, that his claim was improperly denied.[1]

For the reasons we shall discuss, we disagree, and we shall affirm the judgment of the circuit court.

BACKGROUND

In October of 2021, Mr. Presco started a job as a seasonal feeder driver with United Parcel Service, Inc. ("UPS"). However, his employment with UPS both began and ended

[1] The questions presented in Mr. Presco's *pro se* brief are:

1. Did the Appellant satisfy the statutory requirements, where both share a similar definition, for the two (2) non-disqualifying reasons he could voluntarily quit his employment due to valid circumstances L.E. 8-1001(c)(1)(i) and good cause L.E. 8-1001(b)(1)(ii)?

2. Did the reviewing judge err in the ruling of additional evidence when the Petitioner verbally attempted to enter the exhibit as material evidence at the beginning of the hearing according to Maryland . . . Rule 2-311(a)?

on October 18, 2021, when, during his first day of work, he learned that he would be an on-call employee and quit.

Mr. Presco applied for unemployment insurance benefits. A Department claims specialist determined that Mr. Presco had failed to demonstrate that he had good cause or a valid circumstance for quitting his job, and accordingly, that Mr. Presco was not entitled to unemployment insurance benefits.

Mr. Presco appealed the claims specialist's determination to the Department's Lower Appeals Division. A hearing examiner with the Lower Appeals Division held a hearing. Mr. Presco asserted that he quit because he determined that "it was not financially feasible for [him] to continue" working at UPS after he discovered that the position would be on-call because he had hoped to work "60 to 65 hours" per week. In support, he cited a previous Department Board of Appeals decision, *Thomas v. Trimpers Rides*, 371-BR-92.[2]

A representative from UPS, Jennifer Carver, testified that when Mr. Presco was employed, UPS employees "were working mandatory six days a week" and that "more than likely he would have been making a lot of overtime" as an on-call employee. The hearing examiner asked Mr. Presco if he talked with his supervisor before quitting; Mr. Presco testified that he did not.

The hearing examiner affirmed the determination that Mr. Presco was not qualified for unemployment insurance benefits. Specifically, he found that:

[2] Decisions of the Department are available at *Maryland Unemployment Decisions Digest – Appeals*, Maryland Department of Labor, https://www.labor.maryland.gov/uiappeals/decisions/ (last visited April 23, 2025).

> The claimant, Brandon Presco, began working for this employer, United Parcel Service, Inc, on October 18, 2021. At the time of separation, the claimant was working as feeder driver. The claimant last worked for the employer on October 18 2021, before quitting because he did not like being an on-call employee as he did not think the position was financially feasible.
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> The claimant is professional truck driver and accepted this temporary, seasonal job because he had already been unemployed for four weeks. He worked one day and learned that he was an on-call employee. The claimant quit without speaking to the employer because he did not like the idea that he could potentially only work one day a week or maybe no days a week.
>
> The employer has had great need for employees especially during the Christmas season especially since COVlD-19, and employees were working a mandatory six-day work week. The temporary, on-call employees were being utilized virtually every day and were working overtime. Each year, the employer typically hires permanent employees who excel during the holiday season for fulltime employment. The claimant quit without giving the job a chance to see if his financial needs were met.

Further, the hearing examiner noted that Mr. Presco's case was "significantly different from the Board of Appeals' decision in *Thomas v. Trimpers Rides*, [] because [Mr. Presco] did not know the job was financially unfeasible." The hearing examiner noted that in *Thomas*, the claimant "only quit after they saw their hours reduced[,]" whereas Mr. Presco "never gave the employer the opportunity to see how much work he would have[.]"

The hearing examiner concluded that Mr. Presco lacked good cause to quit because he "quit without giving the position an opportunity to see if it was financially feasible" and his decision to quit "was unrelated to the actions of the employer." Further, the hearing examiner concluded that Mr. Presco did not have valid circumstances to quit because the facts indicated that he "did not seek any reasonable alternatives" before quitting and "even admitted that he did not speak to the employer about the normal hours that an on-call employee would expect to work prior to quitting."

The Department's Board of Appeals denied Mr. Presco's appeal of the hearing examiner's determination.[3] Accordingly, Mr. Presco filed a petition for judicial review in the Circuit Court for Prince George's County. After a hearing, the circuit court affirmed the Department's decision, and Mr. Presco noted the instant appeal.

STANDARD OF REVIEW

In an appeal of an administrative agency ruling, "we review the agency's decision directly, not the decision of the circuit court." *Comptroller of Treasury v. Sci. Applications Int'l Corp.*, 405 Md. 185, 192 (2008). Furthermore, "[b]ecause an agency's decision is presumed *prima facie* correct, we review the evidence in the light most favorable to the agency[.]" *Id*. Indeed, our primary goal "is to determine whether the agency's decision was made 'in accordance with the law or whether it is arbitrary, illegal, and capricious.'" *Sugarloaf Citizens Ass'n v. Frederick Cnty. Bd. of Appeals*, 227 Md. App. 536, 546 (2016) (quoting *Long Green Valley Ass'n v. Prigel Family Creamery*, 206 Md. App. 264, 274 (2012)).

In accordance therewith, "we may reverse an administrative decision premised on erroneous legal conclusions." *Catonsville Nursing Home, Inc. v. Loveman*, 349 Md. 560, 569 (1998). However, we will not disturb factual findings supported by substantial evidence, or "relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Id*. (quotation marks and citations omitted). Ultimately, "if reasoning minds could reasonably reach the conclusion reached by the agency from the facts in the

[3] The Board of Appeals has discretion to grant or deny an appeal following an affirmance in the Lower Appeals Division. *See* Lab. & Empl. § 8-806(h)(1)(ii).

record, then it is based upon substantial evidence, and the court has no power to reject that conclusion." *Liberty Nursing Ctr., Inc. v. Dep't of Health & Mental Hygiene*, 330 Md. 433, 443 (1993).

DISCUSSION

Mr. Presco contends that he had good cause and a valid circumstance to quit after learning that the position would be on-call because the job would have been "sporadic, irregular and unpredictable." Additionally, he contends that the circuit court erred in prohibiting him from introducing an exhibit at the hearing on his petition for judicial review. The Department responds that the introduction of new evidence was properly denied at the hearing before the circuit court, and that there was substantial evidence in the record that Mr. Presco quit based upon "speculation [that] was unsupported by anything other than conjecture[.]"

Employees who voluntarily leave employment must have good cause and a valid circumstance to do so to remain eligible to receive unemployment insurance benefits. *See* Lab. & Empl. §8-1001(a), (c). Pertinent to the facts before us, good cause is cause that is "directly attributable to, arising from, or connected with: (i) the conditions of employment; or (ii) the actions of the employing unit[.]" *Id*. at (b)(1). A valid circumstance includes "(i) a substantial cause that is directly attributable to, arising from, or connected with conditions of employment or actions of the employing unit; (ii) of such necessitous or compelling nature that the individual has no reasonable alternative other than leaving the employment; or (iii) caused by the individual leaving employment to follow a spouse[.]" *Id*. at (c)(1).

Here, reasoning minds could reasonably reach the conclusion that Mr. Presco lacked good cause and valid circumstances to voluntarily leave employment under these facts. Mr. Presco quit on his first day on the job. He explained that he did so because he thought it would not be financially feasible to be an on-call employee. However, the testimony before the hearing examiner revealed that Mr. Presco's belief that on-call employment would not be financially feasible was based solely upon his own speculation and was not supported by anything "directly attributable to, arising from, or connected with: (i) the conditions of employment; or (ii) the actions of the employing unit[,]" and thus, was not good cause under Lab. & Empl. § 8-1001(b)(1).

Nor were there facts supporting a finding that Mr. Presco had a valid circumstance to quit under Lab. & Empl. § 8-1001(c)(1). Unobjected to testimony from Ms. Carver indicated that Mr. Presco would have had the opportunity to work as many as six days a week, and even to accrue overtime. Further, Mr. Presco conceded that he did not speak with his supervisor about the hours expected or any reasonable alternatives before quitting. Accordingly, viewing the evidence in the light most favorable to the Department, there was substantial evidence to support the Department's decision to deny Mr. Presco's claim, and we are unpersuaded that that decision was "arbitrary, illegal, and capricious." *Sugarloaf*, 227 Md. App. at 546 (quotation marks and citation omitted).

Nor do we agree that the circuit court erred in prohibiting Mr. Presco from introducing an exhibit at the hearing before the circuit court. When reviewing an administrative agency decision, the circuit court's role is the same as ours: to "review only the decision of the administrative agency itself." *Howard Cnty. Dep't Of Soc. Servs. v.*

Linda J., 161 Md. App. 402, 407 (2005). Accordingly, new evidence may not be admitted. *See* Md. Rule 7-208(c) (providing that "[a]dditional evidence in support of or against the agency's decision is not allowed unless permitted by law."); *see also Montgomery Cnty. v. Stevens*, 337 Md. 471, 482 (1995) (noting "general rule prohibiting a reviewing court from considering new evidence in an action for judicial review of an administrative decision."). Thus, Mr. Presco's attempt to introduce new evidence before the circuit court was properly rejected.

Finally, Mr. Presco raises several new contentions, such as that he quit because the job would have been "sporadic, irregular and unpredictable[,]" that Ms. Carver's testimony was "speculative and overly suggestive[,]" and that the hearing examiner interrupted him or prevented testimony that would have supported his claims. However, because Mr. Presco failed to raise any of these contentions before the Department, they are not properly before us in this appeal. *See* Md. Rule 8-131(a); *see also Ins. Com'r of State of Md. v. Equitable Life Assur. Soc. of U.S.*, 339 Md. 596, 634 (1995) ("We have repeatedly pointed out that judicial review of administrative decisions is limited to the issues or grounds dealt with by the administrative agency."). Even had Mr. Presco properly preserved these claims for our review, we are unpersuaded that they would alter our conclusion that the Department's decision was supported by substantial evidence.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.