

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1429

September Term, 2024

IN THE MATTER OF LINDA TWIGG

Nazarian,
Albright,
Kenney, James A. III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kenney, J.

Filed: February 12, 2026

* 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 Maryland Rule 1-104(a)(2)(B).

This appeal arises from a decision of the Board of Appeals for the Maryland Department of Labor (“Board”), denying a claim for unemployment insurance benefits filed by Linda Twigg. Ms. Twigg sought judicial review of the Board’s decision in the Circuit Court for Allegany County. The circuit court affirmed.

Representing herself, Ms. Twigg noted this timely appeal from the judgment of the circuit court. The issue before this Court is whether there was substantial evidence to support the Board’s determination that Ms. Twigg did not qualify for unemployment benefits because she voluntarily left her employment without good cause or valid circumstance.¹ For the reasons to follow, we shall affirm the judgment of the circuit court.

¹ Ms. Twigg also challenges three procedural orders of the circuit court, specifically, an order denying a motion for recusal, an order denying a motion to transfer venue, and an order granting the Board’s motion to quash witness subpoenas. Ms. Twigg also claims that the court erred in failing to place the parties under oath at the hearing on her petition for judicial review on August 16, 2024. These contentions are not within the scope of our review. “When we review the decision of an administrative agency or tribunal, we assume the same posture as the circuit court and limit our review to the agency’s decision.” *Sugarloaf Citizens Ass’n v. Frederick Cnty. Bd. of Appeals*, 227 Md. App. 536, 546 (2016) (cleaned up). In other words, our role is to determine whether the administrative agency erred, and not whether the circuit court erred. *Bayly Crossing, LLC v. Consumer Prot. Div.*, 417 Md. 128, 136 (2010). “Even though our mandates in administrative law cases remand, affirm, reverse, or modify the circuit court’s judgment, we are reviewing the agency’s decision, not that of the circuit court.” *Bond v. Dep’t of Pub. Safety and Corr. Servs.*, 161 Md. App. 112, 122 (2005) (citation omitted).

That said, we perceive no error by the circuit court in quashing subpoenas or in holding a hearing on Ms. Twigg’s petition for judicial review without swearing in witnesses as the scope of a court’s review of agency action is generally “confined to the record made before the administrative agency.” *Erb v. Maryland Dep’t of Env’t*, 110 Md. App. 246, 266 (1996). “Were new evidence to be allowed before the circuit court and the court permitted to take that evidence into consideration when rendering its decision, the circuit court would no

(continued...)

FACTUAL AND PROCEDURAL BACKGROUND

Ms. Twigg began working for Western Maryland Hospital Center (“WMHC”) as a respiratory therapist in May of 2019. She resigned because of alleged assault and harassment by another employee on September 6, 2023.

By letter dated September 27, 2023, Maryland Department of Labor, Division of Unemployment Insurance (“the Department”) advised Ms. Twigg that a claim she filed for unemployment benefits was denied pursuant to Md. Code (1999, 2016 Repl. Vol.), Labor and Employment Article (“LE”) § 8-1001(a)(1), which provides: “[a]n individual who otherwise is eligible to receive benefits is disqualified from receiving benefits if the Secretary [of Labor] finds that unemployment results from voluntarily leaving work without good cause.” Ms. Twigg appealed the determination to the Department’s Lower Appeals Division.

Evidentiary Hearing Before the Lower Appeals Division

On January 26, 2024, a *de novo* evidentiary hearing was conducted via telephone by a hearing examiner. Ms. Twigg testified in her case, and Wendy Schelle testified on

longer be focusing its attention upon the proper considerations[,]” that is, whether there was substantial evidence to support the agency’s decision. *Id.* at 267. *See also* Md. Rule 7-208(c) (providing that, in an administrative appeal, “[a]dditional evidence in support of or against the agency’s decision is not allowed unless permitted by law”). Furthermore, the basis for Ms. Twigg’s motion for recusal and motion for change of venue was alleged bias of a particular judge. Because that judge did not rule on Ms. Twigg’s petition for judicial review, any alleged error by the court in denying the motion for recusal and motion for change of venue would not be grounds for reversal.

behalf of WMHC. Each party introduced two documents into evidence.² Ms. Twigg testified that the reason she quit her job at WMHC was that she was “assaulted and harassed” by a co-worker, Margaret Hervieux, who worked at WMHC as an infectious diseases nurse.

In chronological order, Ms. Twigg testified that, on June 18, 2022, Ms. Hervieux “questioned” the hand-sanitizing skills of another employee. When asked how that constituted harassment, Ms. Twigg stated that employees were well-trained on hand-sanitizing procedures, but Ms. Hervieux “harasses people” because she “wants to write them up.” Ms. Twigg testified that Ms. Hervieux had harassed her “with handwashing” but Ms. Twigg did not testify to a specific instance of such harassment, and she stated that she had never been written up.

On July 18, 2022, Ms. Twigg called her supervisor at 3:30 in the morning to report that she had “cold chills, fever, and aching[,]” and took an at-home test for COVID-19 that had yielded a positive result. She told the supervisor that she did not want Ms. Hervieux to call her. Ms. Hervieux called Ms. Twigg later that morning and “demand[ed] more testing.”

² Ms. Twigg introduced into evidence: (1) a handwritten statement attributed to Jeanine Uzokwe, dated August 16, 2023; and (2) a letter dated August 28, 2023, from the director of human resources at WMHC to Ms. Twigg. WMHC introduced into evidence: (1) a handwritten statement of Ms. Twigg, dated August 16, 2023, and (2) a typewritten statement of Margaret Hervieux, dated August 22, 2023.

We note that some of the materials filed along with the parties’ briefs were not admitted into evidence at the hearing before the Lower Appeals Division. As our role is to determine whether the Board’s decision was supported by substantial evidence in the record before the Board, we consider only the testimony and documents introduced at the hearing on January 26, 2024.

When Ms. Twigg refused to drive an hour and fifteen minutes to WMHC to be tested, Ms. Hervieux told Ms. Twigg to go to another facility for testing, which Ms. Twigg did. When the hearing examiner asked Ms. Twigg how that constituted harassment, she replied:

I was sick on the couch. I don't think anybody from my job has the authority to call me while I'm off sick. . . . I called off sick, and this shouldn't even have happened. It was none of her business. . . . I knew what I had to do. . . . I didn't need to be told I need to get a COVID test I didn't need to be contacted by email, text messages, and calls while I'm laying on the couch sick.

On October 17, 2022, Ms. Twigg's supervisor advised Ms. Twigg she was due for COVID-testing. Ms. Twigg went to Ms. Hervieux's office and said she was there for testing, and Ms. Hervieux asked, "Testing for what?" Ms. Twigg testified that Ms. Hervieux's response constituted harassment, stating, "We only get tested for COVID. . . . [Ms. Hervieux] knew exactly when I was supposed to get tested, believe me. . . . It was harassment over the whole COVID . . . situation."

On November 17, 2022, Ms. Hervieux asked Ms. Twigg if she was getting tested for COVID. Ms. Twigg responded that she had made arrangements with human resources to be tested by someone other than Ms. Hervieux. According to Ms. Twigg, Ms. Hervieux said, "Holy Christ" and walked away while "screaming," "Why [doesn't] the entire [respiratory therapy] department have someone else test them?"

The next day, on November 18, 2022, Ms. Hervieux gave Ms. Twigg and other employees a "demographic form." Ms. Twigg testified that no one in her department had ever seen the form before, no one understood its purpose, and no one, including her, completed the form. The following day, Ms. Twigg discovered that WMHC had sent a

piece of mail to her estranged husband, but she was unable to determine the nature of that communication or from which department at WMHC it had been sent. Ms. Twigg suspected that it was sent by Ms. Hervieux but admitted she had no proof. She said, “[i]t’s just really odd how a demographics sheet came out for us to do on the 18th, and all of [a] sudden on the 19th, I open up my mail, and there is a letter being sent to my ex-husband at my address.” When the hearing examiner asked how that amounted to harassment, Ms. Twigg responded:

I’m going through a divorce. That’s why all this information - - what happened in that building [- -] is sitting at the Grievance Commission and [on Governor] Wes Moore’s desk today. I sent it months ago. So there’s more people involved in this than what you understand.

I’m going through a very nasty divorce. My husband also works for the state. There’s a lot of stuff going on here, and it’s all going to come out, what’s going on, because I don’t know why letters were being sent there. I don’t know how I ended up losing my job.

On June 21, 2023, Ms. Twigg “called off” work at 4:00 in the morning without giving a reason. The next day, she received “consistent texts and emails” from Ms. Hervieux and another employee who wanted to know why she had called off work. Ms. Twigg felt harassed because she was sick and was “not going to get . . . out of bed and drive to Hagerstown to get tested” for COVID. She said, “[i]t was a big ordeal for me to go to the urgent care center and get it done.”

The alleged assault occurred on August 16, 2023. On that date, Ms. Twigg observed Ms. Hervieux “eavesdropping” outside the respiratory therapy department. Ms. Twigg texted her supervisor and advised her to “watch what she was saying” because Ms. Hervieux was “hiding behind the door[.]” A short time later, Ms. Hervieux approached Ms.

Twigg, “poked” her in the back of the head with either a finger or a file folder and said, “[y]ou should not have told on me.” Ms. Twigg immediately reported the incident to the human resources department. She testified that, after the incident, she had a headache that lasted two days. She was not sure whether it was from being poked in the head or the “stress” associated with the incident.

Ms. Twigg introduced into evidence a handwritten statement attributed to a contractual nurse who worked temporarily at WMHC and who did not testify at the hearing. The statement read as follows: “Observe[d] infection control staff touch staff at the back of her head. Writer assumed it was a joke. I did not observe any conflict. Writer assumed staff were joking and we were laughing.”

On August 21, 2023, Ms. Twigg filed a complaint with human resources regarding the alleged assault. The next day, the director of human resources advised Ms. Twigg that Ms. Hervieux would be “off for a few days.”

Ms. Twigg introduced into evidence a letter dated August 28, 2023, from Eunice Ivory, the Director of Human Resources for WMHC, in which Ms. Ivory advised her that an investigation of the alleged assault was completed, and the allegations of assault were determined to be unfounded. Ms. Ivory wrote: “We did meet with all witnesses that you stated were present on August 16, 2023, and no one substantiated your claim of assault.”

On August 28, 2023, before Ms. Twigg received Ms. Ivory’s letter, Ms. Twigg noticed that Ms. Hervieux’s car was parked next to hers in the public parking lot at WMHC. Ms. Twigg was upset because she was “supposed to be contacted” before Ms. Hervieux returned to work. Ms. Twigg spoke to Ms. Ivory and asked her why she did not inform Ms.

Twigg of Ms. Hervieux’s return. Ms. Twigg was not satisfied with Ms. Ivory’s response and “contacted the state to investigate[.]”

On August 29, 2023, in another incident of alleged harassment, Ms. Hervieux gave Ms. Twigg paperwork to review. Ms. Hervieux later said to someone else: “I hope I didn’t upset [Ms. Twigg by] giving her that piece of paper. I was only joking.” Ms. Twigg did not testify as to the nature or contents of the paperwork.

On September 6, 2023, Ms. Twigg had a meeting with the CEO of WMHC and a member of the human resources department. Ms. Twigg questioned why “nothing had been done” with respect to a grievance she had filed against Ms. Hervieux the previous year. According to Ms. Twigg, that grievance was “missing” from her file. Ms. Twigg informed the CEO and human resources representative that she “could not work under these conditions” and she tendered her resignation. According to Ms. Twigg, she was not advised of her right to appeal the outcome of her complaint of assault.

Wendy Schelle, an employee of WMHC’s human resources department, testified on behalf of WMHC. Ms. Schelle discussed three complaints that Ms. Twigg had filed against Ms. Hervieux and the results of the investigation. She stated that Ms. Twigg had filed a complaint on November 17, 2022, in which she reported Ms. Hervieux cursed and yelled at her. According to Ms. Schelle, Ms. Twigg filed the complaint with the wrong agency, and WMHC did not receive the complaint until after Ms. Twigg resigned. An investigation was conducted, but no witnesses could be located that could corroborate Ms. Twigg’s allegations.

Regarding the complaint of assault that was filed on August 21, 2023, Ms. Schelle stated that Ms. Hervieux, when she was interviewed, said that she did not touch Ms. Twigg. Witnesses who were interviewed during the investigation “either did not recall the incident or declined to say that [Ms. Twigg] was touched or poked in the back of the head.” WMHC could not locate the temporary nurse who had given a written statement to Ms. Twigg because Ms. Twigg did not provide the nurse’s full name, and the nurse was not employed by WMHC. According to Ms. Schelle, Ms. Twigg was advised in person that she had the right to request a mitigation meeting if she disagreed with the conclusion that her claim of assault was unfounded.

Ms. Schelle testified that Ms. Twigg also filed a complaint on August 28, 2023, to report that Ms. Hervieux’s vehicle was parked next to hers. Ms. Schelle stated that security was interviewed but they “had no evidence of those two vehicles parked next to each other on an ongoing basis[.]”

Decision of the Hearing Examiner

The hearing examiner determined that Ms. Twigg failed to meet her burden of proving that she was assaulted, stating:

[Ms. Twigg] presented direct, firsthand testimony but no corroborating witness. She produced written hearsay [from] a person who could not be found by the employer and who wrote that she thought it was a joke. [Ms. Twigg] did not have this individual testify. I did not find the hearsay from this witness credible evidence of an assault.^[3] The employer presented testimony that they investigated and spoke with everyone [Ms. Twigg] identified as being in the nurses’ station when the alleged

³ Hearsay is admissible in administrative proceedings. *Kade v. Charles H. Hickey Sch.*, 80 Md. App. 721, 725 (1989). But if it is to be relied upon as the basis of an administrative decision, it “must be competent and have probative force.” *Id.*

touching occurred. None of the people in the station could corroborate the alleged touching by the infectious diseases nurse. There were alleged witnesses identified by [Ms. Twigg]. Without a witness to support [Ms. Twigg's] allegation and with no physical evidence of an assault, I find that [Ms. Twigg] failed to meet her burden of proof.

The hearing examiner further determined that Ms. Twigg's claim of harassment was unsubstantiated, stating that Ms. Hervieux was "doing her job" as an infectious diseases nurse in admonishing staff about hand-washing procedures and contacting Ms. Twigg at home and at work about COVID-19 testing requirements. The hearing examiner further found that, standing alone, the fact that WMHC sent Ms. Twigg's ex-husband a letter the day after she was asked to complete a demographic form was "mere coincidence[.]" and that there were many reasons why WMHC would have mailed a letter to Ms. Twigg's ex-husband that were unrelated to her employment. Similarly, the hearing examiner found no basis for Ms. Twigg's claim that she was harassed because she was not notified that Ms. Hervieux would be returning to work and that WMHC had notified her, but she had not yet received the notification. Although Ms. Twigg was upset that none of the alleged harassment complaints she had filed with human resources were in her personnel file, and that nothing had been done about them, the hearing examiner found that, rather than requesting a mitigation meeting, she instead resigned.

The hearing examiner concluded that Ms. Twigg's "unemployment was due to leaving work voluntarily without good cause or valid circumstances" within the meaning of LE § 8-1001, stating:

I find that [Ms. Twigg's] quit [sic] was unrelated to the actions of the employer as the infectious diseases nurse did what an infectious diseases nurse was supposed to do in most of the incidents detailed at the hearing.

While [Ms. Twigg] argued that she was assaulted, she did not prove that argument by a preponderance of the evidence[.] She failed to show that the infectious diseases nurse operated outside the scope of what an infectious diseases nurse is supposed to do[,] and thus a finding a good cause is unsupported.

To establish valid circumstances, [Ms. Twigg] had to show that [s]he had a compelling and necessitous reason to quit where no reasonable alternative existed but to quit. As explained above, an employee is not entitled to tell an employer with whom they want to work. It is an employee's job to work with other employees whether they like them or not if directed to do so by the employer. While it is suspicious that the infectious diseases nurse did park next to [Ms. Twigg] on the day she returned from administrative leave, that the claimant's prior complaints to human resources were missing from her personnel file and that the infectious diseases nurse was found outside the respiratory therapy office on August 16, 2023, I do not find someone eavesdropping or parking next to someone or a misplaced file to create a significant enough event to create a necessary and compelling reason to quit. Further[,] the claimant failed to exhaust reasonable alternatives by allowing human resources time to search for the missing file or to have a mitigation meeting. Thus, [Ms. Twigg] did not establish a compelling and necessitous reason to quit and failed to exhaust reasonable alternatives as well. She therefore failed to establish a valid circumstances for quitting.

Ms. Twigg filed a petition for the Board to conduct further review, but the Board denied the petition.⁴ As a consequence, the decision of the hearing examiner is deemed a decision of the Board. LE § 8-806(h)(4)(i). Ms. Twigg then filed a petition for review in the circuit court, which affirmed the Board's decision. This appeal followed.

⁴ Under LE §§ 8-5A-10 and 8-806, review by the Board is required if the hearing examiner does not affirm the determination of the claims specialist. *See* LE §§ 8-5A-10, 8-806(h)(1)(i). If the hearing examiner affirms the determination of the claims specialist, the Board may allow an appeal, but is not required to do so. LE § 8-806(h)(1)(ii).

PARTIES’ CONTENTIONS

Ms. Twigg claims that the Board’s decision must be reversed because she presented evidence that she was assaulted and harassed by Ms. Hervieux. According to Ms. Twigg, she had good cause for quitting because WMHC “accept[ed] this behavior” and failed to acknowledge or investigate the grievances she filed, leaving her no other option but to quit.

The Board maintains that there was substantial evidence in the record to support its determination that the alleged harassment and assault were unsubstantiated, and, therefore, that Ms. Twigg voluntarily quit without good cause or valid circumstances.

STANDARD OF REVIEW

The standard of judicial review of a decision of the Board is governed by LE § 8-5A-12(d), which provides:

(d) *Scope of review.* — In a judicial proceeding under this section, findings of fact of the Board of Appeals are conclusive and the jurisdiction of the court is confined to questions of law if:

- (1) findings of fact are supported by evidence that is competent, material, and substantial in view of the entire record; and
- (2) there is no fraud.

“Under this statute, the reviewing court shall determine only: (1) the legality of the decision and (2) whether there was substantial evidence from the record as a whole to support the decision.” *Thomas v. Dep’t of Lab., Licensing, & Regul.*, 170 Md. App. 650, 657 (2006) (quotation marks and citations omitted). Moreover, we “must review the agency’s decision in the light most favorable to the agency, since decisions of administrative agencies are

prima facie correct and carry with them the presumption of validity.” *Bd. of Educ. of Montgomery Cnty. v. Paynter*, 303 Md. 22, 35-36 (1985).

“The test for determining whether the Board’s findings of fact are supported by substantial evidence is whether reasoning minds could reach the same conclusion from the facts relied upon by the Board.” *Thomas*, 170 Md. App. at 658 (quotation marks and citations omitted). The substantial evidence test can be satisfied by testimony and other supporting facts even if there is conflicting testimony. *B.H. v. Anne Arundel Cnty. Dep’t of Soc. Servs.*, 209 Md. App. 206, 230 (2012). “The existence of substantial evidence pushes the Board’s decision into the unassailable realm of a judgment call, one for which we may not substitute our own exercise of discretion.” *Laurel Racing Ass’n Ltd. P’ship v. Babendreier*, 146 Md. App. 1, 16 (2002) (quotation marks and citation omitted). We cannot reject a decision of the Board supported by substantial evidence unless it “is wrong as a matter of law.” *Thomas*, 170 Md. App. at 658 (quotation marks and citations omitted).

DISCUSSION

The Maryland General Assembly enacted unemployment insurance laws for the purpose of providing “unemployment reserves to be used for the benefit of individuals unemployed through no fault of their own.” *See* LE § 8-102(c). Generally, employees who voluntarily leave employment without “good cause” are completely disqualified from receiving benefits. LE § 8-1001(a). To be “good cause” for voluntarily leaving employment, it must be “directly attributable to, arising from, or connected with (i) the

conditions of employment; or (ii) the actions of the employing unit[.]” LE § 8-1001(b)(1).⁵ “Good cause” for voluntarily leaving employment is an objective determination. *Paynter*, 303 Md. at 37. In addition to being job-related, the reason for leaving must be a cause “which would reasonably impel the average able-bodied qualified worker to give up his or her employment. . . . The applicable standards are the standards of reasonableness as applied to the average man or woman, and not to the supersensitive.” *Id.* (quoting *Uniweld Prods., Inc. v. Indus. Rels. Comm’n*, 277 So. 2d 827, 829 (Fla. Dist. Ct. App. 1973)).

An individual may be partially disqualified from receiving benefits if unemployment is due to leaving work voluntarily without good cause, but because of “valid circumstance[s.]” *Id.* at 29. *See also* LE § 8-1001(e)(2). The extent of disqualification depends on the Board’s evaluation of the “seriousness of the valid circumstances.” *Paynter*, 303 Md. at 28. Valid circumstances for voluntarily leaving work fall into three categories: (1) “a substantial cause that is directly attributable to, arising from, or connected with conditions of employment or actions of the employment unit;” (2) “of such necessitous or compelling nature that the individual has no reasonable alternative other than leaving the employment;” or (3) where the individual leaves employment to follow a spouse who serves in or is employed by the United States military or a federal agency involved in military operations, and where the spouse’s employer requires a mandatory transfer to a new location. LE § 8-1001(c)(1).

⁵ Although not pertinent here, “good cause” for voluntarily leaving employment may be found under certain circumstances where the employee is laid off from employment through no fault of their own, or where domestic violence is involved. LE § 8-1001(b)(2), (3).

In this case, the Board determined that the reason that Ms. Twigg gave for voluntarily leaving employment at WMHC was neither good cause nor a valid circumstance. We are persuaded that its determination was supported by substantial evidence in the record.

Ms. Twigg’s stated reason for voluntarily quitting her job was because she was assaulted and harassed by Ms. Hervieux. The evidence of an assault consisted of her testimony that Ms. Hervieux poked her in the head, and the written statement of the temporary nurse who claimed to see one employee touch another employee. The Board was not obligated to credit that evidence. *See Pickert v. Maryland Bd. of Physicians*, 180 Md. App. 490, 505 (2008) (“A trier of fact, be it [an agency] or a jury, can believe all, part, or none of the testimony of any witness.”). In addition, the evidence presented by Ms. Twigg was contradicted by Ms. Schelle’s testimony regarding the investigation of her claims. In the investigation, Ms. Hervieux denied touching Ms. Twigg, and the individuals identified by Ms. Twigg as having witnessed the alleged assault did not corroborate that an assault occurred. Viewing the evidence as a whole, a reasoning mind could have concluded that Ms. Twigg was not assaulted. Similarly, even though Ms. Twigg characterized other interactions with Ms. Hervieux as harassment, a reasoning mind could reasonably infer from the evidence that Ms. Hervieux was only carrying out her duties as an infectious diseases nurse and that her conduct did not amount to harassment. *See Paynter*, 303 Md. at 36 (“[N]ot only is it the province of the agency to resolve conflicting evidence, but where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the inferences.”).

In short, we hold that there was substantial evidence in the record to support a finding that Ms. Hervieux did not assault or harass Ms. Twigg. Furthermore, we perceive no legal error in the Board's conclusion that Ms. Twigg's stated reason for voluntarily quitting her job did not amount to good cause or valid circumstances, and that she was disqualified from receiving unemployment benefits.

**JUDGMENT OF THE CIRCUIT COURT
FOR ALLEGANY COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**