IN THE COURT OF APPEALS OF IOWA

No. 9-629 / 89-827

FILED
MAR 27 1990
CLERK SUPREME COURT

ELLIOTT OIL COMPANY,

Appellee,

vs.

EMPLOYMENT APPEAL BOARD and GEORGE R. CLARK,

Appellants.

Appeal from the Iowa District Court for Wapello County, Richard J. Vogel, Judge.

Appellants appeal the decision of the district court which reversed the Employment Appeal Board's award of unemployment benefits to Clark. **REVERSED.**

William C. Whitten, Employment Appeal Board, for respondents-appellants.

Jerome M. Beaver of Kiple, Kiple, Denefe, Beaver & Gardner, Ottumwa, for petitioner-appellee.

Heard by Oxberger, C.J., and Donielson and Habhab, JJ.

PER CURIAM 97

Appellant George R. Clark was employed by appellee as the manager of a convenience store in Centerville, Iowa. Pursuant to his employment contract, Clark, who was required to work 51-1/2 hours a week, was paid $3.35 per hour regular pay and $5.05 per hour in overtime. Additionally, he received commissions based on sales. Appellee deducted from Clark's commissions any shortages in cash or property which exceeded 1.3% of gross sales. Appellee deducted from Clark's compensation bad checks and defaulted credit card charges.

In March of 1988, appellee deducted $452.28 from Clark's gross commissions of $695.98, leaving Clark with commissions of $243.73 for the month. Clark subsequently tendered his notice to appellee, but stayed on until the first part of May in order facilitate appellee's desire that he remain in its employ until Clark's replacement could be hired and trained. Clark filed a claim for unemployment compensation. A Job Service representative denied him benefits on the ground that he did not voluntarily quit with good cause attributable to the employer. A hearing officer reversed, determining that the deduction in wages and commissions represented an intolerable working condition and also violated Iowa Code section 91A.5. The Employment Appeal Board affirmed the hearing officer.

Appellee then sought judicial review of the board's judgment. The district court reversed the board's determination. We affirm the board's action thus resulting in a reversal of the district court.

The principles that govern our review are well established. We review the record as a whole to determine whether there is substantial evidence to support the agency's final action. See Higgins v. Iowa Dep't of Job Service, 350 N.W.2d 187, 190 (Iowa 1984). We, like the district court, are bound by the agency's fact findings if those findings are supported by substantial evidence. See Dehmel v. Employment Appeal Bd., 433 N.W.2d 700, 701 (Iowa 1989). Evidence is substantial if a reasonable mind would find it adequate for reaching a decision. Peoples Memorial Hosp. v. Iowa Civil Rights Comm'n, 322 N.W.2d 87, 91 (Iowa 1982). We are not, however, bound by the legal conclusions reached by the agency. Dehmel, 433 N.W.2d at 701.

From our review of the record, we find that the agency correctly applied the law to the facts of the case. When we consider the record as a whole, we conclude there is substantial evidence to support the agency's final action.

With the aforesaid principles of law in mind, we are compelled to affirm the decision of the agency and to reverse the decision of the district court.

REVERSED.