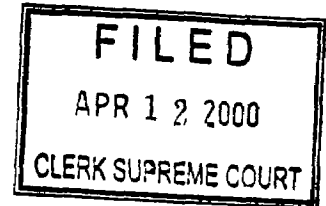


IN THE COURT OF APPEALS OF IOWA

No. 1999-404 (9-657) / 99-0091
Filed April 12, 2000



PATRICIA A. PIZIALI,
Petitioner-Appellee,

vs.

**EMPLOYMENT APPEAL BOARD
and GRANDVIEW COLLEGE,**
Respondents-Appellants.

Appeal from the Iowa District Court for Polk County, Gary G. Kimes,
Judge.

The respondents appeal from the district court's ruling on judicial review
reversing the Employment Appeal Board's decision denying unemployment
benefits to Piziali. **REVERSED.**

James R. Swanger, Margaret C. Callahan, and Michael R. Reck of Belin
Lamson McCormick Zumbach Flynn, P.C., Des Moines, for appellant Grandview
College.

Richard R. Ramsey, Des Moines, for appellant Employment Appeal
Board.

Michael S. Boohar, Legal Aid Society, Des Moines, for appellee.

Considered by Sackett, C.J., Vogel and Hecht, JJ.

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HECHT, J.

Grandview College appeals from an adverse ruling on Patricia Piziali's petition for judicial review of a decision of the Employment Appeal Board. We reverse.

I. Factual Background and Proceedings. Patricia Piziali ("Piziali") has a history of several health problems, including fibromyalgia, osteoarthritis, neuralgia, and vascular insufficiency. She disclosed these problems to Grandview College ("Grandview") when she applied for a position as assistant professor of education for the 1996-97 academic year. The record indicates Piziali informed Grandview's selection committee the vascular problem limited her ability to do extensive walking, stair climbing, and driving. Grandview hired Piziali and she commenced her duties at the college in August of 1996.

In March of 1997, several students approached Piziali with complaints about alleged experiences of general intimidation and humiliation by Professor Martha Davis ("Davis"), the head of Grandview's education department. Piziali encouraged the students to address their complaints directly with Davis before seeking relief from college administrators. Piziali also met with Davis to discuss the problem, and later voiced the students' concerns during a joint conference with Davis and an administrator in the division of social sciences. From that point forward, Piziali claims Davis shunned her and excluded her from departmental meetings.

On March 14, 1997, Grandview offered Piziali a new teaching contract for the next academic year. On April 14, 1997, she requested an extension of time

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in which to decide whether to accept the offer. Piziali claims during a meeting with Grandview's provost and a student on April 18, 1997, the provost said, "If I had my way, this institution – students with disabilities would not come here, or anyone with a disability for that matter."

Piziali met with Grandview's president on April 22, 1997. She told the president of the provost's statement reflecting animus against those with disabilities. During the meeting, Piziali also told the president the provost's conduct constituted retaliation against her for having made a request for accommodation of her disability. She also informed the president of her frustration about the failure of the provost and other administrators to deal with the complaints against Davis. After the president expressed his disinclination to become involved with "internal matters," Piziali presented him with a letter of resignation that stated:

It is with regret that I decline the 1997-1998 Teaching Contract. I have thoroughly enjoyed working with students and meeting such wonderful faculty and staff across campus. However, within the Department of Education and under the supervision of Dr. Martha Davis, it has been an intolerable environment to work. When I spoke with you at home on Sunday, April 6, 1997, you indicated that I visit with Dr. Taylor regarding concerns expressed by students regarding Dr. Davis' rapport with them. I visited with Dr. Taylor and provided two copies of specific concerns shared by a student (one for Dr. Taylor and one for you).

I also visited personally with Dr. Davis and on another occasion with Dr. Davis and Dr. Peterson. On Saturday, April 12, 1997, Dr. Davis contacted me and was angry because I had visited Dr. Taylor. She stated that she didn't have the "foggiest idea" regarding concerns of communication with students and ended the conversation by saying, "I'm not through with you yet."

Since that date, Dr. Davis has not communicated with me. The concerns shared to me by the students and their concerns with Dr.

Davis is not a new situation, for such concerns of communication were expressed by faculty to Dr. Peterson and Dr. Taylor prior to my employment. Thank you for extending me the contract; however, I am unable to work in an environment which is not conducive to my personal and professional well-being.

On September 14, 1997, Piziali filed a claim for unemployment benefits. A representative of the agency denied her claim and Piziali appealed. An administrative law judge held a hearing on November 10, 1997. The ALJ reversed the agency representative and awarded Piziali benefits. Grandview appealed to the Employment Appeal Board ("the Board"). In its decision, the Board made the following findings:

The claimant, Patricia Piziali, was employed by Grandview College as a full-time assistant professor in education from August 29, 1996 through June 30, 1997. The claimant was very unhappy with the manner in which one professor, Dr. Davis, treated several students. When Ms. Piziali suggested that the students, specifically, approach Dr. Davis, the students declined. The claimant attempted to relay their concerns to Dr. Davis, but to no avail. She then arranged a meeting with both Dr. Taylor and Dr. Davis to address the matter. Unhappy with the response she received from Dr. Taylor, the claimant told her employer on April 22, 1997 that she was leaving at the end of her contract.

The Board reasoned from that Piziali quit because she was unhappy with the way Grandview responded to allegations of abusive behavior by Davis toward students. In its decision, the Board noted Piziali's inability to "get along with her fellow professor or administrator is not sufficient reason to quit one's employment and be eligible for benefits." Thus, Piziali was found not to be entitled to unemployment benefits because she quit her employment without good cause attributable to Grandview.

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Filed a petition for judicial review. In its ruling on petition for judicial review reversing the Board's decision, the district court stated:

The Employment Appeals Board's decision rests upon the Conclusion that Ms. Piziali had a personal conflict with her Supervisors and that this precipitated her resignation. However, the proper inquiry ought to have been whether a reasonable person in Ms. Piziali's position would believe that she was being treated differently and in an intolerable fashion as a result of her disability, a circumstance which necessitated her separation from Grandview College. The administrative record in this case does not support a finding of substantial evidence that would support the decision of the Employment Appeal Board. The record indicates serious misconduct on the part of officials at Grandview College if Ms. Piziali's accusations are accurate. A reasonable person in her position would have found the conditions intolerable and detrimental and therefore the decision of the Employment Appeal Board is reversed.

Grandview appeals, contending the district court erred when it concluded the Board's decision is not supported by substantial evidence.

II. Standard of Review. This court's review of an agency decision is ordinarily for correction of errors of law. Iowa R. App. P. 4; *Bridgestone/Firestone, Inc. v. Employment Appeal Bd.*, 570 N.W.2d 85, 90 (Iowa 1997). We apply the standards of section 17A.19(8) to assess whether our conclusions are the same as those reached by the district court. *Mortimer v. Fruehauf Corp.*, 502 N.W.2d 12, 14 (Iowa 1993); *Swanson v. Employment Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa App. 1996). We accord an agency only limited deference on matters of law. *Swanson*, 554 N.W.2d at 296. The agency's decision is binding if substantial evidence supports the decision and it is not based upon an incorrect conclusion of law. *See Bridgestone/Firestone*, 570 N.W.2d at 90. "Evidence is substantial when a reasonable mind would accept it as adequate to reach the

~~same findings.~~ *Eaton v. Employment Appeal Bd.*, 602 N.W.2d 553, 554 (Iowa 1999); *Freeland v. Employment Appeal Bd.*, 592 N.W.2d 193, 196 (Iowa 1992). The issue for the court is not whether the evidence is in conflict or whether reasonable minds might disagree about the conclusions to be drawn from the evidence; rather, the issue for the court is whether the evidence is so one-sided that a finding contrary to that reached by the agency is demanded as a matter of law. *Freeland*, 492 N.W.2d at 197. In reviewing a district court decision on the validity of agency action, the appellate court asks only whether the district court correctly applied the law. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445, 447 (Iowa 1993).

III. The Merits. Grandview contends there is substantial evidence in the record supporting the Board's finding Piziali left her employment without good cause attributable to the employer. We agree. Though Piziali testified her decision to quit was, in part, the result of the provost's animus toward her specifically and the disabled generally, her testimony and her letter of resignation emphasized her dissatisfaction with the employer's response to complaints about Dr. Davis's poor rapport with students. In its appeal decision, the Board found Piziali's inability to get along with a fellow professor precipitated her resignation, prompting her to leave "rather than remain at the college to pursue other remedies." The district court acknowledged the finding of fact made by the Board on this issue:

The Board believed that the real reason she quit was because she was dissatisfied with other faculty members and the administration who did not agree with her about issues that she felt were important.

Although the Board might have found on this record the provost's comment about the disabled and Grandview's response to Piziali's requests for accommodation of her disability could have caused a reasonable person to believe she was being treated intolerably because of her disability, such a finding was not made by the agency, and was not required as a matter of law from this record. The Board is not required to accept each reason articulated by the claimant but may conclude only one of those reasons constituted the claimant's sole reason for quitting. *Efkamp v. Department of Job Serv.*, 383 N.W.2d 566, 567 (Iowa 1986); *Hollensbe v. Dep't of Job Serv.*, 418 N.W.2d 77, 79 (Iowa App. 1987). We conclude a reasonable mind could accept the evidence supporting the Board's finding with respect to Piziali's reason for quitting as adequate to reach that finding.

When the Board rejects as a matter of fact a claimed motivation for quitting and makes a finding the claimant left her employment for a different reason, the rejected motivation is irrelevant to the question of whether the claimant left work for good cause. *Efkamp*, 383 N.W.2d at 567. Having found Piziali quit because of her inability to get along with Professor Davis and her unhappiness with Grandview's response to student complaints against Davis, rather than in response to Grandview's alleged discriminatory treatment of the disabled, the Board was not required to reach the issue of whether a reasonable person in Piziali's position would have believed she was being treated intolerably as a result of her disability.

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~~A claimant~~ is properly denied unemployment benefits if she "left work voluntarily without good cause attributable to the [claimant's] employer. Iowa Code § 96.5(1) (1997). A teacher who declines a new contract leaves work voluntarily. *Des Moines Indep. Community Sch. Dist. v. Department of Job Serv.*, 376 N.W.2d 605, 611 (Iowa 1985); Iowa Admin. Code r. 871-24.25(37) (1997). The Board's finding Piziali left work voluntarily without good cause is supported by substantial evidence in the record. Thus, the district court erred in substituting its judgment for that of the Board when the court found "a reasonable person in her position would have found the conditions intolerable." We reverse the decision of the district court and affirm the decision of the Board.

REVERSED.

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