

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Homebuilder's, Inc.,	:	
Petitioner	:	
	:	
v.	:	
	:	
Unemployment Compensation	:	
Board of Review,	:	No. 757 C.D. 2025
Respondent	:	Submitted: July 24, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON

FILED: September 21, 2026

Homebuilder's Inc. (Employer) petitions for review of the May 30, 2025, order of the Unemployment Compensation (UC) Board of Review (Board). The Board's order affirmed the April 1, 2025, order of the referee, who affirmed the February 11, 2025, determination of the UC Service Center that Ryan Zenz (Claimant) qualified for UC benefits because his voluntary separation from Employer was warranted. Upon review, we affirm.

I. Factual and Procedural Background

Claimant filed online for UC benefits on January 4, 2025. Certified Record (C.R.) at 5. He stated that he worked for Employer, a real estate construction and development company, between November 11, 2024, and December 6, 2024, when he resigned. *Id.* at 3 & 12. He averred that he was hired as a project manager

to “go over plans” and “manage guys going out on worksite[s]” for Employer. *Id.* at 15. He asserted that he resigned because he was “constantly being downgraded” by Employer’s owner and principal, Gary Strausser (Strausser), and that Strausser “totally changed the position” from what Claimant understood when he was hired. *Id.* Claimant averred that he asked Strausser “what I could do to improve and what he would like for me to concentrate on” and that he also spoke with Kyle Martin (Martin), Employer’s rental coordinator. *Id.* at 16. Those conversations did not improve matters and after Strausser told him that “it was not working out,” he handed in his keys and left. *Id.*

Employer responded that Claimant’s job duties never changed and that he quit “with a text message that he was tired of dealing with [Strausser] and the way [Strausser] talks to people.” C.R. at 19. In a phone interview with UC personnel on February 11, 2025, Claimant confirmed that he resigned after a conversation where Strausser told him that “it was not working out.” *Id.* at 25. Claimant also verified that after that conversation with Strausser, he sent a text to someone at Employer announcing his resignation. *Id.* at 25. Claimant’s text is of record and states: “I’m done dealing with the way [Strausser] talks and how he belittles everyone.” *Id.* at 21.

On February 11, 2025, the UC Service Center awarded Claimant benefits because his separation from Employer was “warranted based on the situation that existed.” C.R. at 30. Employer appealed, stating that Claimant worked for less than a month and quit without giving notice or telling anyone. *Id.* at 46. At the March 31, 2025, hearing, Claimant and Employer’s witness, rental coordinator Martin, both appeared without counsel. *Id.* at 86. Claimant testified that he resigned because of his issues with Strausser, including instances where Strausser belittled

him, calling him an “idiot” and saying that “you know, this is like a child can do this job. How can you not figure this out.” *Id.* at 88-89 & 91 (quotation marks added). Claimant testified that he had no issues with anyone else and that when he talked to Martin and another office-level employee, they told him that Strausser “goes through these phases, and that it will get better and actually just try to ignore him.” *Id.* at 88-89. Claimant also averred that Strausser once called him at 1:30 a.m. about the HVAC system in Strausser’s residence and that the day Claimant resigned, Strausser “talked down to” him while Claimant was meeting with a generator installer at Strausser’s house. *Id.* at 91. Claimant explained that he did not mind off-hours contact for emergencies at Employer’s properties but that he minded being called off-hours by Strausser for issues with his personal residence and then being spoken to as quoted above. *Id.* at 90-91.

Martin, Employer’s rental coordinator, testified on behalf of Employer. Martin stated that Employer’s office manager, who handles payroll, is also the human resources (HR) person and that the employee handbook instructs workers to go to that person with any issues. C.R. at 90-91. Claimant responded that a woman who left before he started with Employer had been the HR person and that he did not know that the person who did the payroll was now also the HR person. *Id.*

The referee’s April 1, 2025, decision found as fact that Strausser “made frequent belittling remarks to” Claimant and “repeatedly disparaged [C]laimant’s intelligence and abilities,” that Claimant “complained to other managers about [Strausser’s] behavior,” and that Claimant “voluntarily left his job because of [Strausser’s] behavior.” C.R. at 95. The referee added that because Strausser, the individual subjecting Claimant to “objectionable comments,” “offensive behavior,” and “abusive conduct,” was the company owner, Employer was “aware” of the

circumstances that led Claimant to resign. *Id.* Accordingly, the referee concluded that Claimant proved good cause to resign and affirmed the UC Service Center's determination that Claimant was eligible for UC benefits. *Id.*

Employer appealed, stating that Claimant quit without "formally" advising Employer of his concerns and that Claimant "wasn't here that long and wasn't fully experienced for the job," so Employer should not be responsible for Claimant's UC benefits. C.R. at 106-07. On May 30, 2025, the Board issued an order affirming the referee's decision to award benefits in this case:

[T]he record established [C]laimant was subject to a hostile work environment due to the belittling he faced at work. [C]laimant brought this issue up to multiple managers. Nothing was done to fix [C]laimant's work environment. Because it was the owner of the company who caus[ed] the issue, further efforts to maintain [Claimant's] employment would have been futile. As such, [C]laimant has met his burden of proof.

Id. at 119. Employer appealed to this Court and this matter is now ripe for disposition.

II. Issues

Employer argues that the Board's finding of a necessitous and compelling reason for Claimant's resignation was not supported by substantial evidence and constituted legal error. Employer's Br. at 18-38.

III. Discussion

The Board is the ultimate fact finder and has exclusive power to resolve conflicts in the evidence and to decide witness credibility and the weight to be

accorded to evidence.¹ *Wise v. Unemployment Comp. Bd. of Rev.*, 111 A.3d 1256, 1261-62 (Pa. Cmwlth. 2015). On appeal, this Court must accept the Board's credibility determinations. See *McCarthy v. Unemployment Comp. Bd. of Rev.*, 829 A.2d 1266 (Pa. Cmwlth. 2003). We may not reweigh the evidence but must examine it in the light most favorable to the prevailing party and give that party the benefit of all inferences that can be logically and reasonably drawn from the testimony. *Wise*, 111 A.3d at 1262.

Nonetheless, whether an employee has cause to voluntarily quit employment is a question of law fully reviewable by this Court. *Brunswick Hotel & Conf. Ctr., LLC v. Unemployment Comp. Bd. of Rev.*, 906 A.2d 657, 661 (Pa. Cmwlth. 2006). We must accept the Board's findings of fact but are free to examine the Board's conclusions of law to determine whether or not the Board erred. *Willet v. Unemployment Comp. Bd. of Rev.*, 429 A.2d 1282, 1284 (Pa. Cmwlth. 1981).

Generally, voluntary resignation renders an employee ineligible for UC benefits under Section 402(b) of the UC Law.² *Wise*, 111 A.3d at 1261. There is an exception in Section 402(b) if the employee resigns for "cause of a necessitous or compelling nature." *Id.* Although the UC Law does not define the terms "necessitous" and "compelling," case law has done so. *Brunswick Hotel*, 906 A.2d at 660. The employee must prove that: (1) circumstances existed which produced

¹ Our review is limited to determining whether constitutional rights were violated, whether an error of law was committed, or whether necessary findings of fact are supported by substantial competent evidence. *Wise v. Unemployment Comp. Bd. of Rev.*, 111 A.3d 1256, 1261 n.5 (Pa. Cmwlth. 2015). It is irrelevant whether the record contains evidence to support findings other than those made by the fact finder; the critical inquiry is whether there is substantial evidence in the record to support the findings actually made, which is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Id.* at 1262.

² Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 802(b).

real and substantial pressure to terminate employment, (2) such circumstances would compel a reasonable person to act in the same manner, (3) the claimant acted with ordinary common sense, and (4) the claimant made a reasonable effort to preserve his employment. *Id.*

“Mere dissatisfaction with working conditions or resentment of supervisory criticism or a mere personality conflict absent an intolerable work atmosphere, however, does not constitute necessitous and compelling reasons for a voluntary quit.” *Uniontown Newspapers, Inc. v. Unemployment Comp. Bd. of Rev.*, 558 A.2d 627, 629 (Pa. Cmwlth. 1989). However, this Court has awarded benefits where a claimant was “faced with a situation with no foreseeable resolution” other than resignation. *Craighead-Jenkins v. Unemployment Comp. Bd. of Rev.*, 796 A.2d 1031, 1034 n.5 (Pa. Cmwlth. 2002). Relatedly, the requirements that the claimant make reasonable efforts to maintain his job may be relaxed or even excused if the claimant establishes a reasonable belief that such efforts would be futile. *Mauro v. Unemployment Comp. Bd. of Rev.*, 751 A.2d 276, 280 (Pa. Cmwlth. 2000).

Our case law has distinguished between relatively minor or occasional incidents, which may reflect an “uncomfortable” workplace but do not justify resigning, and sustained or serious incidents or conditions that are unlikely to be resolved through usual channels and which indicate real and substantial pressure to resign. *Mazur v. Unemployment Comp. Bd. of Rev.*, 193 A.3d 1132, 1136 (Pa. Cmwlth. 2018); *see also Willet v. Unemployment Comp. Bd. of Rev.*, 429 A.2d 1282, 1284 (Pa. Cmwlth. 1981) (finding that a supervisor’s derogatory comments, ridicule, and insults to the claimant’s intelligence created substantial pressure to resign). “[A] claimant need not indefinitely subject [himself] to unjust accusations and abusive

conduct.” *First Fed. Sav. Bank v. Unemployment Comp. Bd. of Rev.*, 957 A.2d 811, 816 (Pa. Cmwlth. 2008).

A claimant may also successfully assert that employment becomes unsuitable due to conditions he was not aware of when he took the job. *Karwowski v. Unemployment Comp. Bd. of Rev.*, 74 A.3d 1179, 1184 (Pa. Cmwlth. 2013). In this context, the claimant must show “a change in his job conditions or a deception by the employer, making him unaware, when he entered the employment relationship, of conditions which he later alleges to be onerous.” *Id.* (quoting *Shaw v. Unemployment Comp. Bd. of Rev.*, 406 A.2d 608, 609 (Pa. Cmwlth. 1979)).

Here, Claimant stated in his UC application that he was hired as a project manager to “go over plans” and “manage guys going out on worksite[s]” for Employer. C.R. at 15. Claimant testified that after he began working, Strausser “totally changed the position” from what Claimant understood when he was hired and did so without any notice or instructions. *Id.* This involved additional non-construction property management and maintenance duties like salting the properties after a snowfall, as well as demands by Strausser that Claimant attend to issues with a generator and the HVAC systems at Strausser’s personal residence. *Id.* at 88-91. In addition to these changes in his expected job duties, Claimant testified that during his weeks with Employer, Strausser “constantly” belittled and spoke down to him, insulting his intelligence by calling him an “idiot,” stating that “a child could do his job,” and telling him that it wasn’t working out. *Id.* In its opinion, the Board tacitly accepted the referee’s findings of fact and agreed with the referee that the record evidence established a hostile work environment “due to the belittling [Claimant] faced at work.” *Id.* at 119.

Employer argues that the evidence shows that Claimant did not, in fact, understand his job duties, that Strausser's expectations and reprimands of Claimant were reasonable, and that Strausser had "every right to be unhappy" and "frustrated" with Claimant's job performance. Employer's Br. at 20-26. Employer adds that Claimant pointed out only a few instances of the conduct at issue and that the incident at Strausser's house with the generator was presented at the hearing with insufficient "context." *Id.* at 24.

The Board responds that the record supported its conclusion that Strausser's conduct towards Claimant, which was not refuted in the record, exceeded "mere dissatisfaction with working conditions or resentment of supervisory criticism or a mere personality conflict" and fell within the kind of abusive conduct that warrants benefits. Board's Br. at 5-11 & 14-17. The Board adds that the "context" Employer provided in its brief for the incident at Strausser's house was not presented at the hearing or in documentation while the record was open and, in any event, Strausser's hostile comments to Claimant "in front of another person" were both consistent with his regular treatment of Claimant and unjustified.³ *Id.* at 9 n.1.

The Board's adoption of the referee's findings of fact on this issue was supported by the record and did not constitute legal error. The referee's findings that Strausser "made frequent belittling remarks" to Claimant and "repeatedly disparaged [Claimant's] intelligence and abilities" and that Claimant quit "because of [Strausser's] behavior" correspond with Claimant's testimony and are essentially undisputed by Employer. *See* C.R. at 88-91 & 95.

³ To the extent that Employer has provided this additional "context" to support its position, we agree with the Board that Employer's assertions in this regard were not presented while the record was open. This Court cannot consider averments of facts outside the record when reviewing the Board's findings. *Hollingsworth v. Unemployment Comp. Bd. of Rev.*, 189 A.3d 1109, 1113 (Pa. Cmwlth. 2018).

Further, Employer did not dispute Claimant's testimony that Strausser asked him to do things that were not part of his understanding of his job as project manager overseeing construction plans and crews, including tasks more properly characterized as property management, as well as tasks at Strausser's personal residence. Notably, Claimant did not refuse to perform these tasks, but merely expressed unfamiliarity with them, which led to further disparagements from Strausser. Taken as a whole, the evidence supports the Board's conclusion that real and substantial pressure existed here that justified Claimant's resignation.

Regarding the remaining elements of justifiable resignation – whether the circumstances would compel a reasonable person to act in the same manner, whether Claimant exercised ordinary common sense, and whether Claimant made reasonable efforts to preserve his employment – this Court has generally addressed these elements of the test in combination as they relate to how a claimant reacts to the circumstances discussed in the first element concerning the hostility or tolerability of the work setting at issue. *See Yingling v. Unemployment Comp. Bd. of Rev.*, 228 A.3d 289, 301-04 (Pa. Cmwlth. 2020). Notably, “[a]lthough common sense and reasonable effort include informing a supervisor or other management of dissatisfaction, a claimant may be excused from reporting problematic work conditions if he or she reasonably believed that reporting would have been futile.” *Id.* at 303 (internal citation omitted; collecting cases). Relevant here, the requisite futility arises when the individual responsible for the abusive conduct is the owner, president, or sole/top authority at the company and it would be unrealistic for the claimant to ask that person to change the behavior or conduct. *See E. Wheatfield Twp. v. Unemployment Comp. Bd. of Rev.* (Pa. Cmwlth., No. 35 C.D. 2024, filed Aug. 22, 2025), slip op. at 8, 2025 WL 2426912, at *4; *Spectrum Cmty. Servs., Inc.*

v. Unemployment Comp. Bd. of Rev. (Pa. Cmwlth., No. 679 C.D. 2020, filed May 24, 2021), slip op. at 15, 2021 WL 2068918, at *7.⁴

Here, the record supports the Board's adoption of the facts as found by the referee with regard to the last three elements of the test, taken together. Claimant asserted in his application that he tried unsuccessfully to talk to Strausser. He did not know that the since-departed HR person's duties had been assigned to the person who did the company's payroll. When he spoke to Martin and another office-level employee, he was told that was just how Strausser was; their advice was to try and ignore it. These facts were not refuted by Employer. Accordingly, given this evidence, the Board properly concluded that Claimant was not bound to attempt reconciliation with Employer because such efforts would have been futile.

IV. Conclusion

In light of the foregoing, we affirm the Board's May 30, 2025, order granting benefits.

CHRISTINE FIZZANO CANNON, Judge

⁴ Under Section 414(a) of this Court's Internal Operating Procedures, an unpublished memorandum opinion of this Court issued after January 15, 2008, although not binding precedent, may be cited for its persuasive value. 210 Pa. Code § 69.414(a).

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ORDER

AND NOW, this 21st day of September 2026, the May 30, 2025, order of the Unemployment Compensation Board of Review is AFFIRMED.

CHRISTINE FIZZANO CANNON, Judge