

ARKANSAS COURT OF APPEALS

DIVISION III

No. E11-302

JIM D. DRENNAN

APPELLANT

V.

DIRECTOR, DEPARTMENT OF
WORKFORCE SERVICES AND
PALEX TEXAS, LP

APPELLEES

Opinion Delivered September 19, 2012

APPEAL FROM THE ARKANSAS
BOARD OF REVIEW
[NO. 2011-BR-01301]

AFFIRMED

RAYMOND R. ABRAMSON, Judge

The appellant, Jim Drennan, was terminated for misconduct. At the time of his termination, he worked as a truck driver for Palex Texas, LP, which recycles and manufactures wooden pallets. On February 22, 2011, he arrived early for work, presumably to obtain overtime hours. Because employees were forbidden to work overtime, the employer suspended Drennan for one day. At that point, Drennan said, “this is a crock of s---.” Consequently, he was terminated for using profanity.

Appellant applied for unemployment benefits, but his claim was denied because he was discharged for misconduct. He appealed that determination to the Appeal Tribunal, which denied him benefits for the same reason. The Board of Review adopted the Appeal Tribunal’s decision. We affirm.

On appeal, we review the findings of the Board in the light most favorable to the prevailing party, reversing only where the Board’s findings are not supported by substantial



evidence. *Crouch v. Dir., Dep't of Workforce Servs.*, 2012 Ark. App. 262. Substantial evidence is such evidence as a reasonable mind might accept as adequate to support a conclusion. *Coker v. Dir., Dep't of Workforce Servs.*, 99 Ark. App. 455, 262 S.W.3d 175 (2007). Even when there is evidence on which the Board might have reached a different decision, the scope of our judicial review is limited to a determination of whether the Board could reasonably reach its decision upon the evidence before it. *Crouch, supra*. Issues of credibility of witnesses and weight to be afforded their testimony are matters for the Board to determine. *Coker, supra*.

A person is disqualified from benefits if he is discharged for misconduct. Ark. Code Ann. § 11-10-514 (Supp. 2011). Misconduct, for purposes of unemployment compensation, involves (1) disregard of the employer's interest; (2) violation of the employer's rules; (3) disregard of the standards of behavior which the employer has the right to expect; and (4) disregard of the employee's duties and obligations to his employer. *Rucker v. Price*, 52 Ark. App. 126, 915 S.W.2d 315 (1996). The issue of misconduct is a question of fact for the Board of Review to determine. *Ark. Internal Med. Clinic v. Dir., Dep't of Workforce Servs.*, 2012 Ark. App. 95.

Here, Drennan was discharged for using profanity to his superiors in response to his one-day suspension. All parties agree to this fact. Drennan also admitted he was given an employee handbook, which said abusive or inflammatory language against a superior was grounds for disciplinary penalties. However, he argues that using profanity in his workplace was common and, therefore, his use of profanity was not misconduct. The Board disagreed and concluded Drennan's use of profanity in response to a superior's decision to suspend him



Cite as 2012 Ark. App. 510

did amount to misconduct. This is a reasonable conclusion to draw based on Drennan's admission that he received the employee handbook that prohibited abusive and inflammatory language. In other words, it is clear Drennan violated his employer's rules. Therefore, the Board's decision to deny Drennan benefits was supported by substantial evidence.

Affirmed.

HOOFFMAN and BROWN, JJ., agree.

Schmidt Law Firm, PLC, by: *Heath Ramsey*, for appellant.

Phyllis Edwards, for appellee.