

# ARKANSAS COURT OF APPEALS

DIVISION III

No. E-16-146

LOBINA CONSTRUCTION  
APPELLANT

V.

DARYL BASSETT, DIRECTOR,  
DEPARTMENT OF WORKFORCE  
SERVICES, and JOE MARTINEZ  
APPELLEES

Opinion Delivered November 16, 2016

APPEAL FROM THE ARKANSAS  
BOARD OF REVIEW  
[NO. 2016-BR-00218]

AFFIRMED

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## PHILLIP T. WHITEAKER, Judge

Lobina Construction appeals from a decision of the Arkansas Board of Review (Board), which concluded that Lobina Construction had discharged the claimant, Joe Martinez, for reasons other than misconduct in connection with the work and awarded Martinez benefits. The only issue on appeal is whether there was sufficient evidence to support the Board's finding. We affirm.

The standard of review to be followed in such cases is clear:

We do not conduct a de novo review in appeals from the Board of Review. In appeals of unemployment compensation cases we instead review the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Board of Review's findings. The findings of fact made by the Board of Review are conclusive if supported by substantial evidence; even when there is evidence upon which the Board might have reached a different decision, the scope of judicial review is limited to a determination of whether the Board could have reasonably reached its decision based on the evidence before it. Substantial evidence is such evidence as a reasonable mind might accept as adequate to support a conclusion.



*Barnard v. Dir.*, 2013 Ark. App. 143, at 2 (quoting *Valentine v. Dir.*, 2012 Ark. App. 612, at 3). It is also clear that the credibility of the witnesses and the weight to be accorded their testimony are matters to be resolved by the Board of Review, *Barnard, supra*; like a jury, an administrative body is free to believe or disbelieve the testimony of any witness. *Gunter v. Dir.*, 82 Ark. App. 346, 107 S.W.3d 902 (2003).

Here, the only issue presented is the sufficiency of the evidence. From our review of the record, we conclude that the Board's findings are supported by substantial evidence. Therefore, we affirm the Board's decision by this memorandum opinion pursuant to section (a) of *In re Memorandum Opinions*, 16 Ark. App. 301, 700 S.W.2d 63 (1985).

Affirmed.

VIRDEN and GLOVER, JJ., agree.

*Rush & Rush*, by: *Patrick F. Flake*, for appellant.

*Phyllis A. Edwards*, for appellee.