

Cite as 2022 Ark. App. 385  
**ARKANSAS COURT OF APPEALS**  
DIVISION I  
No. E-21-461

SILVER LEIGH CELY

APPELLANT

V.

DIRECTOR, DIVISION OF WORKFORCE  
SERVICES; AND GREENE COUNTY

APPELLEES

Opinion Delivered October 5, 2022

APPEAL FROM THE ARKANSAS  
BOARD OF REVIEW  
[NO. 2021-BR-01650]

AFFIRMED

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**RITA W. GRUBER, Judge**

Appellant Silver Leigh Cely appeals from the Arkansas Board of Review’s (“Board’s”) July 15, 2021 decision disqualifying her from unemployment benefits under Ark. Code Ann. § 11-10-519(a)(1) (Supp. 2021). Because the facts are the same as those presented in *Cely v. Director*, 2022 Ark. App. 384, which we also hand down today, we do not restate them herein. In this appeal, appellant argues that there was not substantial evidence to support the Board’s decision that she made a false statement or misrepresentation of material fact on her initial claim for benefits.<sup>1</sup> We disagree and affirm.

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<sup>1</sup>Appellant also argues that the evidence did not support the finding that she was discharged from her last work for misconduct in connection with the work under Ark. Code Ann. § 11-10-514 (Supp. 2021). However, the Board’s decision affirmed the Division’s determination under Ark. Code Ann. § 11-10-519 only. The Board made no mention of misconduct in its decision on appeal here.

This court affirms the decision of the Board when it is supported by substantial evidence. *Rodermund v. Dir.*, 2021 Ark. App. 458, 637 S.W.3d 291. Substantial evidence is such relevant evidence as reasonable minds might accept as adequate to support a conclusion. *Id.* We view the evidence and all reasonable inferences in the light most favorable to the Board’s findings. *Id.* Even if the evidence could support a different decision, our review asks whether the Board could have reasonably reached its decision on the basis of the evidence presented. *Id.* The credibility of witnesses and the weight to be accorded their testimony are matters to be resolved by the Board. *Gieringer v. Dir.*, 2022 Ark. App. 280, 646 S.W.3d 692.

Under Ark. Code Ann. § 11-10-519(a)(1)(A) (Supp. 2021), if so found by the director of the Division of Workforce Services, an individual shall be disqualified for benefits if he or she willfully makes a false statement or misrepresentation of a material fact or willfully fails to disclose a material fact in filing an initial claim or a claim renewal. Appellant argues that the evidence did not support the Board’s decision that she willfully made false statements or misrepresentations and willfully failed to disclose material facts when filing an initial claim. We disagree.

Appellant filed her initial application for unemployment benefits on April 3, 2020, and cited her separation from work as “Laid Off – Lack of Work” despite being told by McClelland that she was not fired. There was no evidence presented that the employer lacked work. In contrast, the employer’s response to appellant’s initial application for benefits listed appellant’s separation from work as “Quit – General.” Six months later, on October 19, appellant filed an application for continued unemployment benefits citing her separation from work as “Quit – General.”

Appellant cited conflicting reasons for leaving work on her initial claim—“Laid Off - Lack of Work”; and her claim for continued benefits—“Quit - General.” The Board found that there was no evidence that she was laid off or that there was a lack of work; therefore, appellant intentionally provided incorrect information on her initial claim. Although appellant argues that no one testified to contradict her testimony and that the hearing officer disregarded her testimony regarding the circumstances of her separation from work, the credibility of witnesses and the weight to be accorded their testimony are matters to be resolved by the Board. *Burgos v. Dir.*, 2021 Ark. App. 270.

Appellant also argues that she was denied due process and equal protection guaranteed by the Fourteenth Amendment to the United States Constitution when the hearing officer failed to consider the record as a whole and failed to make findings supported by evidence. Because this argument and our analysis are the same as those presented in *Cely v. Director*, 2022 Ark. App. 384, we do not restate them herein.

Our review is limited to determining whether the Board could reasonably reach its decision on the basis of the evidence before it, even if there is evidence on which the Board might have reached a different decision. *Hourston v. Dir.*, 2022 Ark. App. 141, 643 S.W.3d 476. We find that it could, and we affirm.

Affirmed.

GLADWIN and BARRETT, JJ., agree.

*Larry J. Steele PLC*, by: *Larry J. Steele*, for appellant.

*Cynthia L. Uhrynawycz*, for appellee.