*Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2010-027

JULY TERM, 2010

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| Kenneth Conley | } | APPEALED FROM: |
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| | } | |
| v. | } | Employment Security Board |
| | } | |
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| Department of Labor | } | DOCKET NO. 10-09-151-06 |
| (Formula Nissan, Inc., Employer) | } | |

In the above-entitled cause, the Clerk will enter:

Claimant appeals from the denial of his request for unemployment benefits. On appeal, claimant argues that the Board's finding that he left his employment voluntarily without good cause attributable to his employer is not supported by the evidence. We affirm.

Claimant worked for eight months for Formula Nissan reconditioning automobiles. On August 26, 2009, claimant submitted his resignation to his employer, stating that he was going to start his own small business. Claimant's request for unemployment benefits was denied because the adjudicator concluded that he left his last job voluntarily without good cause attributable to his employer. Claimant appealed the determination. A telephonic hearing was held before an administrative judge.

Claimant testified that although he said he was leaving to start his own business, he said so to "save face." He explained that the real reasons he left were because he felt insulted and was treated poorly by employer. Claimant explained he was humiliated when his application for a sales position was ridiculed by the general manager and an inexperienced young person was hired to help in his auto detailing work. As to poor treatment, claimant testified that when he tried to voice his concerns during a meeting with the general manager and the finance manager, the general manager demeaned him with profanities and told him he could not speak with the owner. The general manager testified at the hearing. He denied swearing during the meeting and stated that the owner's door was always open. The finance manager also testified that there was no swearing at the meeting.

The administrative law judge found it was within the employer's prerogative to hire a young assistant and to refuse to promote claimant. As to claimant's other accusation, the judge found employer's witnesses more credible. The judge found the general manager did not swear at claimant, that the owner had an open-door policy and that claimant did not need permission to speak with him.

Claimant appealed to the Employment Security Board, which sustained the decision of the administrative law judge. This appeal followed.

An employee is disqualified from unemployment benefits if the employee voluntarily leaves without good cause attributable to the employer. 21 V.S.A. § 1344(a)(2)(A). Where the sole issue is whether there is good cause attributable to the employer, we give great weight to the decision of the Board. Cook v. Dep't of Employment & Training, 143 Vt. 497, 501 (1983). The burden of proving good cause attributable to the employer is on the employee. Skudlarek v. Dep't of Employment & Training, 160 Vt. 277, 280 (1993).

On appeal, claimant argues that he had good cause to quit because of unprofessional and humiliating treatment by his manager. To determine if there was good cause to quit, we consider "what a reasonable person would have done in the same circumstances." Isabelle v. Dep't of Employment & Training, 150 Vt. 458, 460 (1988). We conclude that employer's decisions not to consider claimant for a sales job and to hire an adolescent to work with claimant do not constitute good cause to quit. While it may be that claimant was qualified for a sales job or did not require an assistant, these are matters all within the employer's discretion. See Healey v. Dep't of Employment Sec., 140 Vt. 79, 81 (1981) (explaining that even though a part-time employee was qualified for a full-time position, the employer was not required to change the terms of her employment).

Finally, we address claimant's argument that the manager used profanity during their meeting and prevented him from contacting the owner, and then lied about this during his testimony. On appeal, we will affirm the Board's factual findings as long as they are supported by credible evidence, "even if there is substantial evidence to the contrary." Cook, 143 at 501. We conclude that the evidence adequately supports the Board's finding that the manager did not swear during the meeting or prevent claimant from speaking with the owner. Although claimant disputes the manager's testimony, it is not for this court to reassess credibility of witnesses after the hearing below. Nor, contrary to claimant's argument, is corroboration required to bolster the testimony of any witness. The administrative judge and the Board found the manager's testimony more credible than claimant's, and we defer to the Board's determination of credibility. See Id. at 501 (explaining that weight, credibility, and persuasive effect are for the Board to decide).

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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John A. Dooley, Associate Justice

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Brian L. Burgess, Associate Justice