

BOARD OF REVIEW
OKLAHOMA EMPLOYMENT SECURITY COMMISSION
P.O. BOX 53345
OKLAHOMA CITY, OK 73152

Docket No. 17-AT-01447-BR

In Re: Claim of:

CLAIMANT

APPELLANT

Date of Appeal to Board: **DECEMBER 9, 2016**

OPINION

The BOARD OF REVIEW considered the findings and decision of the Appeal Tribunal Hearing Officer, reversing the Commission's determination by finding the claimant was discharged from her last employment but not for misconduct connected with the work and allowing benefits in accordance with Section 2-406, Title 40, Okla. Stat., as amended.

This matter is submitted on the recording of the hearing held before the Appeal Tribunal, the Appeal Tribunal decision, and the records in the offices of the Oklahoma Employment Security Commission, the Appeal Tribunal, and the Board of Review pertaining to this appeal.

The employer submitted documentation to the Board of Review that was not presented at the Appeal Tribunal hearing. In the Rules for the Administration of the Oklahoma Employment Security Act, Rule 240:15-3-3(c) states, "If, at the original Appeal Tribunal hearing, any documents, exhibits, testimony or evidence of any kind was, or could have been, in the possession of the propounding party, but the propounding party failed to introduce it at the hearing and it was not included in the documents of the Commission, then it shall not be considered or made part of the record by the Board of Review, or the Appeal Tribunal on remand." Therefore the new documentation could not be considered by the Board when examining this case.

The claimant was discharged for being habitually late and for poor work performance. The employer testified the claimant did not work well with her co-worker with whom she shared job duties, and that she did not do her work correctly. The claimant admitted that she had been warned about these things. Employer's Exhibit 1 verifies the employer's contention that the claimant was frequently late. The Board of Review finds the employer did meet the burden of showing the claimant was discharged due to misconduct connected to the work.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby REVERSED. The claimant is denied benefits effective week ending September 24, 2016, and indefinitely until she becomes re-employed and earns wages equal to or in excess of ten times her weekly benefit amount.