

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

Docket No. 16-AT-08409-UCFE-BR

In Re: Claim of:

APPELLANT

EMPLOYER

Date of Appeal to Board: JUNE 21, 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 his last employment for misconduct connected with the work and denying 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 claimant 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 employed as an Aerospace Engineer at Tinker Air Force Base. He was charged with four criminal charges regarding domestic abuse, which was not alleged to have occurred on base or to have been job-related. Because of these charges, the employer ultimately made the decision to deny the claimant access to the base. Because the claimant had no access to the base, he could not do his job. The criminal charges have not been tried and substantiated. At best, the employer's decision based on the charges was premature. At this time, before determination of charges, misconduct has not been established as the reason for discharge.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby REVERSED. The claimant is allowed benefits effective April 24, 2016.