THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Case No.: 21-ALJ-22-0047-AP

RECEIVED
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SC Court of Appeals

Appellate Case No. 2024-001795

James M. Harley, Appellant,

v.

South Carolina Department of Employment
and Workforce and Bradshaw Automotive Group, Inc., Respondents.

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STATEMENT OF THE ISSUES ON APPEAL

I. Does substantial evidence support the Appellate Panel's finding that Appellant voluntarily quit his employment without good case, where he submitted a resignation on January 31, 2020, indicating that he planned to relocate to the Midwest?

II. Did the Appellate Panel commit an error of law by finding Appellant voluntarily quit his employment without good cause, where the Employer did not accept Appellant's attempt to withdraw his resignation?

III. Should this Court disregard arguments on determinations that are not properly before this Court?

STATEMENT OF THE CASE

Appellant James Harley worked for Bradshaw Automotive Group (the Employer) from August 26, 2019, through a last day worked of February 29, 2020. (ALC R.p.43 line 7 through p.44 line 10). He filed for unemployment insurance benefits with Respondent the South Carolina Department of Employment and Workforce (the Department) on May 4, 2020. (ALC R.pp.8-10). The Department's claims adjudicator issued a determination dated July 16, 2020, holding Appellant indefinitely disqualified from receiving benefits, effective May 3, 2020, based on a finding he left work voluntarily without good cause. (ALC R.p.19).

On July 22, 2020, Appellant appealed the claims adjudicator's decision to the Department's Appeal Tribunal (the Tribunal). (ALC R.p.21). The Tribunal held a hearing on November 18, 2020, and, by decision dated November 30, 2020, affirmed the claims adjudicator's determination that Appellant voluntarily quit his employment without good cause. (ALC R.pp.27-162). Appellant then appealed the Tribunal's decision to the Department's Appellate Panel (the Panel) on December 10, 2020. (ALC R.pp.163-164). The Panel issued its decision on January 20, 2021, affirming the Tribunal's decision. (ALC R.pp.176-179). The ALC affirmed the Panel's decision finding substantial evidence supported Appellant voluntarily quit his employment without good cause and that the Tribunal did not err in the administration of the case. (ALC Order). Appellant subsequently appealed the ALC's decision to this Court.

STANDARD OF REVIEW

The Department is an agency governed by the Administrative Procedures Act (APA). *See Gibson v. Florence Country Club*, 282 S.C. 384, 386, 318 S.E.2d 365, 367 (1984) (finding the Department's predecessor, the Employment Security Commission, subject to the APA). Pursuant to the provisions of the APA, the Court of Appeals may reverse or modify the decision of an Administrative Law Judge if substantial rights of the appellant have been prejudiced because the findings or decisions are:

> (a) in violation of constitutional or statutory provisions;
> (b) in excess of the statutory authority of the agency;
> (c) made upon unlawful procedure;
> (d) affected by other error of law;
> (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
> (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-610(B).

Under section 1-23-610(B), this Court's review is limited to determining whether the ALC committed an error of law when applying its standard of review pursuant to section 1-23-380(5) of the South Carolina Code and finding substantive evidence supported the Panel's decision. "The decision of the Administrative Law Court should not be overturned unless it is unsupported by substantial evidence or controlled by some error of law." *Original Blue Ribbon Taxi Corp. v. S.C. Dept. of Motor Vehicles*, 380 S.C. 600, 604, 670 S.E.2d 674, 676 (Ct. App. 2008). "The ALC judge's order should be affirmed if supported by substantial evidence in the record." *Id.* "Substantial evidence, when considering the record as a whole, would allow reasonable minds to reach the same

conclusion as the Administrative Law Court and is more than a scintilla of evidence." *Id.* at 605, 670 S.E.2d at 676. "The mere possibility of drawing two inconsistent conclusions from the evidence does not prevent a finding from being supported by substantial evidence." *Id.* at 605, 670 S.E.2d at 677.

STATEMENT OF THE FACTS

Appellant worked with the Employer from August 26, 2019, through a last day worked of February 29, 2020, as a sales consultant. (ALC R.p.42 line 18 through p.44 line 10). Appellant was paid through April 1, 2020. *Id.* Appellant attested that he resigned his employment on January 31, 2020, due to an alleged lack of accommodation and bullying in the workplace. (ALC R.p.53 line 5-p.54 line 26). Appellant contends he requested to use his personal laptop at work and the Employer denied allowing him to use his personal laptop on the sales floor. (ALC R.p.48 lines 11-14). He did not bring his request to human resources until January 30, 2020, and he testified that he did not hear back from human resources until around February 19, 2020, after he had already submitted his resignation on January 31, 2020. (ALC R.p.83 lines 7-15). He also asserted a few days after submitting his resignation that he tried to withdraw it because he felt like he was going to be bullied. (ALC R.p.49 lines 21-24).

On January 30, 2020, at 6:33 PM, Appellant sent an email to human resources regarding an accommodation and to raise concerns about other employees. (ALC R.pp.140-141). On January 31, 2020, at 7:46 AM Appellant emailed the same human resources representative and resigned his position effective February 29, 2020. (ALC R.p.132). Appellant stated in his resignation email that he needed to find work near his son

in the Midwest, but he wanted to continue working through February 29, 2020, in order to complete training. *Id.* There had been no changes to the terms of his employment. (ALC R.p.71 line 29 – p.72 line 5). On February 5, 2020, Appellant sent another email to the same human resources representative acknowledging their scheduled meeting later that day, outlining his concerns and other request, attempting to rescind his resignation, and stating he would submit another letter of resignation if he did not average a certain number of sales per month. (ALC R.pp.144-145). On that same day, Appellant was informed that the Employer had accepted his resignation. (ALC R.p.52 lines 13-19). In neither the January 30, 2020, nor February 5, 2020 correspondence, did Appellant specify that his request regarding his laptop was for specific software. (ALC R.p.140-141; p.144-145).

Appellant's manager testified that while Appellant requested to use his personal laptop, it was for general correspondence with customers and testing, and that the manager was not advised of any medically-related condition Appellant had and/or speech to text software needed in order to perform the essential functions of his job. (ALC R.p.86 lines 1-17). It was not until the end of January that Appellant identified his need for speech to text software. (ALC R.p.98 lines 21-25). The Employer witness also advised that the alleged bullying Appellant mentioned was limited to another employee not being available to the Appellant to assist with sales. (ALC R.p.87 lines13-26). The Employer witness could not recall any other instances of Appellant reporting or alleging bullying. *Id.* As the Employer witness testified, Appellant was provided two alternative resources when the employee was not available. *Id.* Additionally, the Employer investigated Appellant's allegation and determined there was no bullying. (ALC R.p.87 lines 1-6). Appellant

performed no additional work for the Employer after February 29, 2020, and was a paid a severance. (ALC R.p.90 lines 6-21). Had Appellant not resigned on January 31, 2020, there still would have been continuing work available for him. (ALC R.p. 97 lines 2-5). Appellant appealed to the Panel and the Panel found:

> The record establishes the [Appellant] voluntarily resigned his employment when he initially offered his resignation notice on January 31, 2020. By doing so, the [Appellant] initiated the severing of the employment relationship. Although the [Appellant] later attempted to rescind his resignation notice, the Employer was under no obligation to allow him to rescind the notice or continue the employment relationship. Moreover, he had received specific communication from the HR manager the resignation notice was accepted as final. Regarding the [Appellant's] concerns related to the accommodation request and working environment, the record indicates the [Appellant] had only escalated his concerns to HR on January 30, 2020, one day before submitting his resignation notice. The [Appellant] did not allow the Employer an adequate opportunity to address his working environment concerns and his request for reasonable workplace accommodations before he offered his resignation notice. Furthermore, when the [Appellant] desired to continue his employment and attempted to rescind his resignation notice, there had been no change to management's denial of the [Appellant's] request to use his personal laptop for his work duties. Yet the [Appellant] was willing to continue working, had the Employer rescinded the resignation notice. Given the totality of the situation at the time of the [Appellant's] separation, we do not find the circumstances to rise to the level that a reasonable person would become totally unemployed rather than continue working. Therefore, we find the [Appellant] voluntarily left work without good cause attributable to the employment.

(ALC R.p.4)

Appellant appealed the Panel's decision to the ALC, and after reviewing briefs submitted by the parties, the ALC affirmed the Panel's decision, finding "the Department's determination is supported by substantial evidence in the record and is not arbitrary or characterized by an abuse of discretion." Further, the ALC found that,

> [t]he events cited by Appellant do not show Appellant was prejudiced by the hearing officer's conduct. Appellant has failed to demonstrate he was substantially prejudiced by the administrative process.' The Panel's conclusion that the hearing officer "allowed [Appellant] a full and fair opportunity to present his case, and conducted the hearing with impartiality" is a reasonable conclusion based on the substantial evidence in the record, and the [ALC] will not reverse or modify that finding.

(ALC Order). Appellant now appeals the ALC decision to this Court.

ARGUMENT

I. THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE APPELLATE PANEL'S DECISION BECAUSE SUBSTANTIAL EVIDENCE SUPPORTS THE PANEL'S FINDING THAT APPELLANT VOLUNTARILY QUIT HIS EMPLOYMENT WITHOUT GOOD CAUSE ATTRIBUTABLE TO THE EMPLOYMENT WHEN HE VOLUNTARILY SUBMITTED A NOTICE OF RESIGNATION ON JANUARY 31, 2020.

In this case, the ALC found substantial evidence in the record supported the Panel's determination that Appellant voluntarily quit his employment without good cause attributable the Employer. (ALC Order). An insured worker is eligible to receive benefits only if the Department finds he "has separated, **through no fault of his own**, from his most recent bona fide employer." S.C. Code Ann. § 41-35-110(5) (2021) (emphasis added). Fault in this context "is not limited to something that is blameworthy, culpable or wrong," but rather "must be construed as meaning failure or volition." *Stone Mfg. Co. v. S.C. Emp't Sec. Comm'n*, 219 S.C. 239, 246-47, 64 S.E.2d 644, 646 (1951) (citations omitted). Further, an insured worker is ineligible for UI benefits if he "left [his employment] voluntarily, without good cause." S.C. Code Ann. § 41-35-120(1) (2021); *see Ex parte S.C. Emp't Sec. Comm'n*, 332 S.C. 286, 288, 504 S.E.2d 345, 346 (Ct. App. 1998) ("An employee who voluntarily resigns from employment without good cause is ineligible for unemployment benefits."). The South Carolina Supreme Court has held that "good cause" means cause "attributable to or connected with" the employment. *Faile v. S.C. Emp't Sec. Comm'n*, 267 S.C. 536, 541, 230 S.E.2d 219, 222 (1976). Importantly, when a claimant attempts to show he had good cause to quit his employment, he must show there was something attributable to the job or workplace itself that made it unreasonable for the claimant to continue

working. Attributable to the employer means "that it must be the work or the employer himself that creates the condition making it unreasonable to expect this employee to continue to work." *Ewing v. SSM Health Care*, 265 S.W.3d 882, 887 (Mo. Ct. App. 2008) (citing *Mena v. Cosentino Grp., Inc.*, 233 S.W.3d 800, 804 (Mo. Ct. App. 2007)). Good cause also means that the circumstances attributable to the employer "would cause a reasonable person in a similar situation to leave employment rather than continue working…" 76 Am.Jur.2d *Unemployment Compensation* §105, Westlaw (database updated May 2025). Additionally, "[t]o be entitled to unemployment compensation benefits for voluntarily quitting a job for good cause, the claimant must have explored all viable options before making the decision to quit." 76 Am.Jur.2d *Unemployment Compensation* §104, Westlaw (database updated May 2025).

Here, the ALC found substantial evidence in the record supported the Panel's finding that Appellant voluntarily quit his employment without good cause when he submitted a resignation on January 31, 2020, citing his desire to move to the Midwest for personal reasons – namely to be near his son. (ALC R.p.132). In Appellant's fact-finding questionnaire he completed with the Department on May 4, 2020, he indicated he was forced to retire from employment earlier than anticipated for unknown reasons. (ALC R.pp.8-10). Later, during testimony before the Tribunal, Appellant asserted his reasons for quitting were due to alleged bullying and lack of accommodation. However, he had only sent these concerns to human resources the evening prior to—or approximately 13 hours before—his resignation. (ALC R.pp.132, 140-141). Additionally, all parties agree that after Appellant submitted his resignation that he attempted to rescind his resignation. There was

no indication in testimony or other submitted evidence that any change in his employment had occurred. (ALC R.p. 71 line 29 – p. 72 line 5). As such, the alleged issues relied on by the Appellant would not have caused a reasonable person to quit employment rather than continue working. *See Stone*, 219 S.C. 239, 247, 64 S.E.2d 644, 647. Indeed, Appellant wanted to continue working a one-month notice period (until February 29, 2020) after he submitted his resignation on January 31, 2020, and then he later attempted to rescind his resignation. In both of those scenarios, Appellant sought to continue working under the same circumstances. Accordingly, substantial evidence supports the Panel's finding that Appellant voluntarily quit his employment without good cause attributable to his employment. The Court should affirm.

II. THE ADMINISTRATIVE LAW COURT PROPERLY HELD THE PANEL DID NOT COMMIT AN ERROR OF LAW WHEN IT FOUND APPELLANT HAD VOLUNTARILY QUIT WITHOUT GOOD CAUSE WHEN APPELLANT ATTEMPTED TO WITHDRAW HIS RESIGNATION PRIOR TO HIS RESIGNATION'S EFFECTIVE DATE AND THE EMPLOYER DID NOT CONSENT TO THE WITHDRAWAL OF THE RESIGNATION.

As the ALC discussed, "South Carolina appellate courts have not adjudicated the issue of whether the attempted recission of a resignation transforms a case of leaving work involuntarily into a termination of employment by the employer." (ALC Order.) "In South Carolina, employment is presumed to be at will," meaning "either party may terminate employment 'at any time, for any reason or for no reason at all' without incurring liability." *Hall v. UBS Fin. Services Inc.*, 435 S.C. 75, 81, 866 S.E.2d 337, 339 (S.C. 2021) (internal citations omitted). Our courts have recognized, applying general contract principles, that in certain circumstances an employee's at-will status may be altered, including certain

circumstances related to an employee handbook and when the termination is in a violation of a public policy. *Hall,* 435 S.C. 75, 81 at FN 3.

Under general contract principles, an offer is a bargained-for exchange that "creates a power of acceptance in the offeree." *Carolina Amusement Co., Inc. v. Connecticut Life Ins.* 313 S.C. 215, 220, 437 S.E.2d 122,125 (Ct.App.1993) (internal citations omitted). Particularly, in this matter, there was no bargained-for exchange in the "offer" of resignation. Rather, Appellant's resignation was an execution of the doctrine of employment at-will, to terminate one's employment. This initiation of the separation process did not and should not be considered by this Court to have transmuted Appellant's employment into some contract of definite employment.

Further, "[a]n employee who submits a voluntary resignation without good cause, but subsequently attempts to withdraw such resignation before its effective date, will generally be deemed to have left his or her employment voluntarily if the employer does not consent to the withdrawal of the resignation." 76 Am.Jur.2d *Unemployment Compensation* §137, Westlaw (database updated May 2025). This is consistent with a majority of jurisdictions and there is no appellate South Carolina precedent otherwise. *See Cunliffe v. Industrial Claim Appeals Office of State of Colorado,* 51 P.3d 1088 (Colo. Ct. App. 2002) (conducting a jurisdictional analysis and finding the majority of jurisdictions deny unemployment benefits, notwithstanding an employer's refusal to accept a withdrawal of a resignation). Here, Appellant was advised on February 5, 2020, that his resignation was accepted. There was no indication that the Employer consented to the withdrawal of Appellant's resignation.

Appellant also attempts to argue that the denial of unemployment benefits is contrary to the remedial nature of unemployment insurance benefits. (App.Initial.Brief p.4). However, the unemployment compensation statutes are clear that unemployment benefits are reserved for those who become unemployed **due to no fault of their own.** S.C. Code Ann. § 41-35-110(5). It naturally follows that when an employee voluntary quits their available employment without good cause attributable to the employer, they have become unemployed due to their own actions, or their own fault. *See Stone, supra* (explaining that fault also means due to the employee's own volition).

Accordingly, the ALC properly found the Panel did not commit any error of law in finding Appellant voluntarily quit his employment without good cause attributable to the Employer. Thus, this Court should affirm.

III. THIS COURT SHOULD DISREGARD APPELLANT'S ARGUMENTS REGARDING DETERMINATIONS THAT ARE NOT PROPERLY BEFORE THIS COURT.

Appellant's arguments regarding whether the Employer violated the ADA and his eligibility for Pandemic Unemployment Assistance were not raised and ruled upon by the Appellate Panel and must be disregarded. (ALC Order). "Courts sitting in an appellate capacity may not consider issues not raised or ruled on by [an] administrative agency." *Carson v. South Carolina Dep't of Natural Res.,* 371 S.C. 114, 120, 638 S.E.2d 45, 48 (2002). Because this Court sits in an appellate capacity, its review is limited to the Panel's decision on appeal to this Court. *See Timms v. Timms*, 286 S.C. 291, 294, 333 S.E.2d 74, 75 (Ct.App. 1985). ("We are confined to the record in deciding issues on appeal."). The issues before and ruled upon by the Panel, and affirmed by the ALC, were whether the

Appellant voluntarily quit his available employment without good cause attributable to the employment and whether the Tribunal hearing officer erred in the administration of the case. As such, Court is limited to a review of those issues and should disregard Appellant's other arguments and affirm the ALC decision.

a. Appellant's argument that he had good cause to quit based on his own conclusory statement that the Employer violated the ADA is not before the court.

Appellant attempts to argue that he had good cause to quit because he requested accommodation and erroneously believes the Employer violated the ADA. Even if this matter were before the Court and notwithstanding Appellant's unsupported and arbitrary conclusion that the Employer violated the ADA, the Panel *did* consider Appellant's request for accommodation in evaluating whether he quit for good cause.[1] Specifically, the Panel found that Appellant "did not allow the employer a reasonable opportunity to address this concerns and his request for reasonable accommodation before he offered his resignation

[1] Appellant's assertion that failing to provide a reasonable accommodation constitutes a violation of the ADA fails for two reasons. First, as the Seventh Circuit opinion he cited makes clear, failure to accommodate alone is generally *insufficient* to state a claim of constructive discharge under the ADA. *See EEOC v. Sears, Roebuck & Co.*, 233 F.3d 432, 440 (7th Cir. 2000) (stating constructive discharge requires a finding that work conditions were intolerable and that the discharge was due to the disability); *see Johnson v. Shalala*, 991 F.2d 126, 131 (4th Cir. 1993) ("The consequences of regarding every failure to accommodate an employee as a constructive discharge would be significant. ... It is far better for all concerned to resolve the dispute while the employment relationship is ongoing.") Second, *because Appellant caused the breakdown* in the interactive process by resigning hours later, which failed to give the employer time to engage in the interactive process, as well as determining whether another appropriate accommodation existed, the *employer is not liable* for an alleged violation of the ADA. *See Tarquinio v. Johns Hopkins U. Applied Physics Lab*, 141 F.4th 568, 575 (4th Cir. 2025) (explaining employee's obligations during interactive process); s*ee also Smith v. CSRA*, 12 F.4th 396, 415 (4th Cir. 2021) (finding five weeks between a request and the accommodation being provided not unreasonable).

the next day." (ALC R.p.162). The Panel's finding is supported by Appellant's own testimony and documents Appellant submitted to the Employer. Appellant testified that he brought the issue up to human resources in writing. (ALC R.p.48 lines 1-4). Appellant's submitted exhibit reflects that a request for accommodation was made via email at 6:33 PM on January 30, 2020. (ALC R.pp.140-141). And then Appellant resigned by email the following morning at 7:46 AM on January 31, 2020, citing his personal desire to move to the Midwest to be near his son. (ALC R.p.132). Thus, substantial evidence exists in the record to support a finding Appellant quit his employment without providing the Employer an opportunity to address his accommodation request, and the Court should otherwise disregard Appellant's argument regarding ADA violations and affirm the ALC decision.

b. **Appellant's assertion that the department acted arbitrarily regarding his claims for Pandemic Unemployment Assistance is not before this court.**

Appellant makes incorrect conclusory assertions that the Department acted arbitrarily, or otherwise incorrectly, in issuing determinations regarding his claims for pandemic unemployment assistance.[2] However, the determinations regarding pandemic unemployment assistance and any associated issues are not before this Court, and therefore this Court may not grant relief on those matters. As such, the Court should disregard Appellant's arguments regarding determinations on Appellant's eligibility for Pandemic Unemployment Assistance and affirm the ALC decision.

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[2] All determinations of eligibility are based upon the requirements set forth in the State's Employment and Labor Laws regarding unemployment insurance, the federal CARES Act regarding pandemic unemployment assistance, and guidance issued in the Department of Labor's Unemployment Insurance Program Letters.

CONCLUSION

The party challenging the ruling bears the burden of proving that the Panel's decision is unsupported by the evidence. *Original Blue Ribbon Taxi Corp, supra.* The only decision that is properly before this Court is the decision affirming Appellant voluntarily quit his employment without good cause attributable to the employment. The decision of the Panel is supported by substantial evidence in the record as a whole, is in accordance with applicable law, and is not arbitrary, capricious or characterized by abuse of discretion, or controlled by an error of law. As a result, the ALC's decision affirming the Panel was correct and this Court should affirm.

[signature on following page]

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PROOF OF SERVICE

I certify that I have served the DESIGNATION OF MATTER AND INTIAL BRIEF OF RESPONDENTS on the parties in this case by mail on September 10, 2025, addressed to the parties at their addresses of record:

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