

**Document E - Sample Board Decision on Request for Corrections (Step 5)**

BR-21a

**STATE OF CONNECTICUT**  
**Department of Labor**  
**EMPLOYMENT SECURITY BOARD OF REVIEW**  
**38 Wolcott Hill Road**  
**Wethersfield, CT 06109566-6932**  
**Telephone: (860) 566-3045 Fax: (860) 263-6977**

**Employee Name  
and Address**

**SS#: \*\*\*-\*\*-\*\*\*\***

v.

**ADMINISTRATOR,  
UNEMPLOYMENT COMPENSATION ACT**

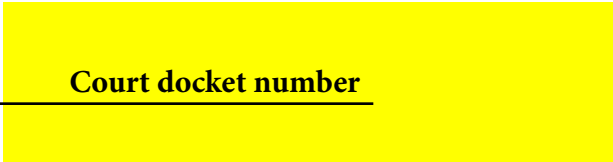
and

**Employer Name  
and Address**

**ER#:**

**DOCKET NO.** XX -XX- XX

**CASE NO.** -BR-



**Date this decision**

**mailed:**

## DECISION ON THE CLAIMANT'S MOTION TO CORRECT FINDINGS

On September 27, 2011, the board certified the record of this case to the Superior Court. On October 3, 2011, pursuant to Practice Book § 22-4, the claimant filed a motion to correct the findings contained in the board's August 4, 2011 decision. On January 10, 2012, the court (Bellis, J.) ordered the board to prepare a transcript of the referee's hearing. On February 27, 2012, the board certified a transcript of the referee's hearing to the Superior Court. On February 28, 2012, the board gave notice to the adverse parties of the filing of the motion and their right to file objections. The employer has not filed an objection to the motion.

Pursuant to Practice Book § 22-7, the board rules on the claimant's motion to correct as follows:

1. The board **denies** the claimant's request that it delete finding of fact no. 2, which states that the claimant quit her job due to her dissatisfaction with her employer.

The referee and the board made a credibility determination in favor of the employer regarding the events leading to the separation from employment. These subordinate facts led to our ultimate finding that the claimant quit her job. That credibility determination is supported by the record in this case. Significantly, it is undisputed that the employer's owner sent the claimant an email explaining why it had requested the claimant's keys and telling her that she was waiting for the claimant to report to work. See finding of fact no. 8. Tr. 15, 16, 21, 22, 23, 33, 34, 48 and 49. The parties also concur in the referee's finding of fact no. 9, that the claimant never responded to that email, or reported to work thereafter. Tr. 23, 45.

The claimant testified that she was dissatisfied with her employment, and that if the separation was categorized as a discharge, she had good cause attributable to the employer for leaving. Tr. 54. Thus, the portion of finding of fact no. 2 citing the claimant's dissatisfactions with the employer is also supported by the record.

2. The board **denies** the claimant's request that it delete its finding of fact no. 12, which states that the employer's owner did not have a former employee come into the office to assist her until after the claimant failed to report to work on November 11, 2010.

The board's finding of fact no. 12 is supported by the evidence in the record. The board made a credibility determination in favor of the employer. The record supports that determination. See Tr. 30-31. The claimant offered no reliable evidence to refute the owner's testimony that she contacted a former employer to come to work on the afternoon of November 11, 2010, because she had patients and no receptionist to care for them.

3. The board **denies** the claimant's request that we adopt a finding that the claimant contacted the Connecticut Department of Labor on November 10, 2010, and was advised not to return to work but to initiate a claim for unemployment compensation benefits, which she did that day.

The board denies the claimant's request because the proposed finding of fact is not relevant, probative or material in this case. The board also denies the request because there is no credible or reliable evidence to support a finding that the administrator advised the claimant not to return to work but to file a claim for unemployment compensation benefits.

The claimant's filing a claim on November 10, 2010, does not indicate that she was discharged. Even though the record reveals that the claimant worked on November 10, 2010, she had no contact with the employer that day which could have led her to file a claim for benefits. See Tr. 25, 26, 44. The claimant did not dispute the employer's owner's testimony that she was off on Wednesdays, including November 10, 2010. Tr. 25, 26. The next contact between the parties occurred the following day, on November 11, 2010, when the owner contacted the claimant to determine why she had not reported to work. See finding of fact nos. 5 through 7, which are not in dispute. In the context of these facts, the proposed finding would not lead to a conclusion that the employer discharged the claimant or that the claimant reasonably believed that she had been discharged.

The record does not support a finding that the administrator directed the claimant to leave the job and initiate a claim for unemployment compensation benefits. The claimant testified that the CT DOL Help Line advised her that "if" she was afraid of her employer, she would have the "option" of filing for unemployment compensation benefits and not returning to work. She further testified that the administrator's staff member told her that it "was up to (her)" and that this was an option *if* her situation was such that she feared her employer. Tr. 52.

Even if the administrator had advised the claimant to initiate a claim, rather than suggesting that option to the claimant based upon her presentation of the situation, it would have no bearing on the case before us. The claimant has not provided any persuasive reason that this fact would be relevant or material to the categorization of the separation in this case.

#### BOARD OF REVIEW

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Lynne M. Knox, Chair,

ES Board of Review

In this decision, Board Member Elizabeth S. Wagner concurs.

LMK:ASK:mle

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