MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

C.M.,

Appellant-Claimant,

v.

Review Board of the Indiana Department of Workforce Development,

Appellee.

July 29, 2022

Court of Appeals Case No. 22A-EX-85

Appeal from the Review Board of the Indiana Department of Workforce Development

The Honorable Gabriel Paul, Chairperson

The Honorable Larry A. Dailey, Member

The Honorable
Heather D. Cummings, Member

Application No.
21-R-5920

Molter, Judge.

[1] C.M. appeals the decision of the Review Board of the Indiana Department of Workforce Development (the "Board"), which affirmed the decision of the Administrative Law Judge ("ALJ") that C.M. had received deductible income in the form of severance pay such that he was ineligible for unemployment benefits. Generally, C.M. argues the Board erred when it determined he was ineligible to receive unemployment benefits. Finding no error, we affirm.

Facts and Procedural History

[2] C.M. began working for Eaton Corporation ("Eaton") on July 5, 1988. In 2021, Eaton closed its plant, and C.M. was separated from employment on April 30 of that year. At some point before the plant closed, C.M. and Eaton entered into an Agreement and General Release (the "Agreement") to "establish their rights and obligations concerning the ending of [C.M.'s] employment with Eaton." Appellant's App. Vol. 2 at 8; Tr. at 13. Pursuant to the terms of the Agreement, C.M.'s employment would "end at the close of business on 5/1/2021." Appellant's App. Vol. 2 at 8. In addition, Eaton

agreed to pay C.M. a "Plant Discontinuance Benefit" in the amount of $44,116.80 "in consideration for performing [his] obligations in th[e] Agreement." *Id.*

[3] In exchange, C.M. agreed to return certain items to the Human Resources Department; to not disclose any information "that would create a competitive disadvantage for Eaton"; to discharge Eaton from "all liabilities, claims, causes of actions, charges, complaints, losses, damages, injuries, attorneys' fees and other legal responsibilities, of any form whatsoever, whether known or unknown"; and to not "provide any assistance, information, report, aid or cooperation to any private party, other than Eaton, in any litigation, investigation or other proceeding against Eaton." *Id.* at 8–10.

[4] On May 9, 2021, C.M. received a lump-sum payment from Eaton in the amount of $44,116.80. C.M. then applied for unemployment benefits from the Indiana Department of Workforce Development ("DWD"). DWD determined that C.M. had received "severance" pay, which was "deductible income." Ex. 1. Also, DWD determined that C.M.'s deductible income exceeded his weekly benefit amount. Therefore, DWD concluded that C.M. was not eligible for unemployment benefits for the week ending May 22, 2021, through the week ending May 7, 2022, and denied C.M.'s claim.

[5] C.M. appealed DWD's decision to the ALJ. C.M. asserted that the payment was a "bonus" from Eaton, which he received for "staying on from the closing announcement until [he] was asked to leave the facility." Ex. 2. He further

claimed that any employee who left early "did not receive the stay on bonus." *Id.*

[6] The ALJ subsequently held a telephonic hearing at which only C.M. appeared. During the hearing, C.M. stated that the payment from Eaton was not "severance pay" but that it was a "plant discontinuance benefit," which he described as "stay-on pay." Tr. at 8, 10. He also testified that he received a lump-sum payment of $44,116.80 in May 2021. *Id.* at 9. And when asked if the payment he received was "allocated to any particular weeks," C.M. stated that it was not. *Id.* at 9–10.

[7] Following the hearing, the ALJ entered findings of fact and conclusions thereon. Particularly, the ALJ found that

> [a]fter [C.M.] was separated, he was paid a package of plant discontinuation benefit severance pay in a lump sum on May 9, 2021. [The payment] was paid as approximately 52 weeks of severance pay at $21.21 per hour at 40 hours per week. [C.M.] was paid a gross amount of $44,116.80 in severance pay in a lump sum on May 9, 2021.

Appellant's App. Vol. 2 at 6 (citations omitted).

[8] The ALJ then concluded that C.M.'s severance pay "would be allocated weekly as deductible income from the week ending [o]n May 8, 2021[,] through the week ending [on] April 30, 2022." *Id.* As such, the ALJ determined that C.M.'s deductible income, which was calculated as $848, exceeded his weekly benefit amount of $390 and that he was therefore ineligible for unemployment

benefits from the week ending on May 8, 2021, through the week ending on April 30, 2022. The ALJ also affirmed the decision of the DWD. C.M. appealed the ALJ's decision to the Board, which affirmed the decision of the ALJ without a hearing. C.M. now appeals.

Discussion and Decision

I. Standard of Review

[9] C.M. appeals the Board's determination that he was ineligible to receive unemployment benefits. Decisions of the Board are conclusive and binding as to all questions of fact. Ind. Code § 22-4-17-12(a). When the decision of the Board is challenged, an appellate court makes a two-part inquiry into (1) "the sufficiency of the facts found to sustain the decision" and (2) "the sufficiency of the evidence to sustain the findings of fact." *J.M. v. Review Bd. of Ind. Dep't of Workforce Dev.*, 975 N.E.2d 1283, 1286 (Ind. 2012); *see also* Ind. Code § 22-4-17-12(f). Under this standard, (1) the Board's findings of fact are reviewed for substantial evidence, (2) findings of mixed questions of fact and law (*i.e.*, ultimate facts) are reviewed for reasonableness, and (3) legal propositions are reviewed for correctness. *K.S. v. Review Bd. of Ind. Dep't of Workforce Dev.*, 33 N.E.3d 1195, 1197 (Ind. Ct. App. 2015). This court neither reweighs the evidence nor assesses witness credibility, and it considers only the evidence most favorable to the Board's findings. *Id.* This court will reverse the Board's decision only if there is no substantial evidence to support the Board's findings. *J.M.*, 975 N.E.2d at 1286.

[10] Further,

> [u]ltimate facts—typically mixed questions of fact and law—are reviewed to ensure the Board has drawn a reasonable inference in light of its findings on the basic, underlying facts . . . . The court examines the logic of the inference drawn and imposes any rules of law that may drive the result. The Board's conclusion must be reversed if the underlying facts are not supported by substantial evidence or the logic of the inference is faulty, even where the agency acts within its expertise, or if the agency proceeds under an incorrect view of the law.

Chrysler Grp., LLC v. Review Bd. of the Ind. Dep't of Workforce Dev., 960 N.E.2d 118, 122–23 (Ind. 2012) (cleaned up).

II. Indiana's Unemployment Compensation Act

[11] Indiana's Unemployment Compensation Act "was enacted to provide for payment of benefits to persons unemployed through no fault of their own." *Ind. State Univ. v. LaFief*, 888 N.E.2d 184, 186 (Ind. 2008) (quotation marks omitted). To be eligible for unemployment benefits, an individual must meet the requirements set forth in Indiana Code section 22-4-14-1 and must not be disqualified by any of the various exceptions provided in Indiana Code section 22-4-15-1. *Id.*

[12] As relevant here, Indiana Code section 22-4-15-4(a)(1) provides that an individual "shall be ineligible for . . . benefit rights for any week with respect to which the individual receives, is receiving, or has received payments" in the form of "deductible income" that equals or exceeds the individual's weekly

benefit. Deductible income includes, but is not limited to, renumeration for services, dismissal pay, vacation pay, pay for idle time, holiday pay, sick pay, traveling expenses, net earning from self-employment, awards by the National Labor Relations Board, and payments made under the Fair Labor Standards Act. Ind. Code § 22-4-5-1(a). Also,

> [t]he payment of accrued vacation pay, dismissal pay, or severance pay to an individual separated from employment by an employing unit shall be allocated to the period of time for which such payment is made immediately following the date of separation, and an individual receiving such payments shall not be deemed unemployed with respect to a week during which such allocated deductible income equals or exceeds the weekly benefit amount of the individual's claim.

Ind. Code § 22-4-5-2(b).

A. Whether the Lump-Sum Payment Constituted Severance Pay

[13] C.M. challenges the Board's decision that the lump-sum payment he received from Eaton constituted severance pay. He particularly argues that the determination is "not supported by any record evidence." Appellant's Br. at 26. Instead, C.M. contends that the Agreement and his "undisputed testimony conclusively establish that [he] did not receive severance pay as a matter of fact." *Id.*

[14] The term "severance pay" is not defined in Indiana Code article 22-4. But according to the United States Department of Labor, "[s]everance pay is often granted to employees upon termination of employment. It is usually based on

length of employment for which an employee is eligible upon termination." *Severance Pay*, U.S. DEP'T LABOR, https://www.dol.gov/general/topic/wages/severancepay (last visited July 7, 2022). Similarly, Merriam-Webster defines "severance pay" as "an allowance usually based on length of service that is payable to an employee on termination of employment. *Severance Pay*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/severance%20pay.

[15] While we recognize that the Agreement does not explicitly identify the lump-sum payment as severance pay, it nevertheless characterizes the payment as something to be granted to C.M. upon termination of his employment. Specifically, the Agreement stated that the lump-sum payment, identified as a "Plant Discontinuance Benefit," would be calculated based upon C.M.'s length of service with Eaton. Appellant's App. Vol. 2 at 8 ("[C.M.]'s employment with Eaton will end at the close of business on 5/1/2021 ("Termination Date"), on which date [C.M.] will have 33 years of service for purposes of calculating [his] Plant Discontinuance Benefit[ ]."). Also, the Agreement stated that Eaton would pay C.M. the lump-sum seven days after he accepted the Agreement, which he undisputedly did. *See id.* Thus, the record establishes that Eaton calculated C.M.'s plant discontinuation benefit based on his length of service and paid it to him shortly after he was separated from employment. As such, we cannot say that the lump-sum payment falls into anything but the usual definition of severance pay, as described above.

[16] Regardless, C.M. claims that the "various obligations" he was required to perform under the Agreement "prove that he did not receive severance pay." Appellant's Br. at 27. We disagree. First, the Agreement does not discuss Eaton's pending closure or otherwise indicate that the lump-sum payment was in exchange for C.M. staying with Eaton until its plant closed. Instead, the Agreement expressly states that Eaton would pay C.M. the lump-sum "in consideration for performing [his] obligations in th[e] Agreement." Appellant's App. Vol. 2 at 8. Also, C.M.'s obligations included returning items to the Human Resources department, not disclosing company information, and discharging Eaton from known or unknown claims—which are all consistent with the termination of a person's employment and do not demonstrate that the lump-sum payment was anything other than severance pay.

[17] C.M. further argues that the lump-sum payment was not severance pay but an incentive to remain employed pending the plant's closure. To support his argument, C.M. directs us to a portion of the Agreement that states his employment with Eaton "[would] end at the close of business on 5/1/2021." *Id.*; *see* Appellant's Br. at 28 ("The Plant Discontinuance Benefit was consideration provided to C.M. to influence his behavior before May 1, 2021 . . . ."). But that provision, without more, does not demonstrate that Eaton paid C.M. in exchange for C.M.'s agreement to remain in its workforce. Rather, it simply outlines when C.M.'s last day of work would be. As discussed above, the Agreement does not indicate that the lump-sum payment was in exchange for C.M. to remain employed, and the record does not indicate when Eaton

originally presented the Agreement to C.M. Further, to the extent that C.M. argues his testimony established that the payment was stay-on pay or an incentive to remain employed, Appellant's Br. at 29, the Board was not required to accept C.M.'s opinion as fact in light of the terms of the Agreement. Thus, based on the plain language of the Agreement—including how the pay was calculated—we cannot say that the Board's conclusion that the lump-sum payment, or Plant Discontinuance Benefit, was severance pay is unreasonable.

[18] Still, C.M. claims that that payment cannot be considered deductible income as a matter of law based on this court's holding in *Green Ridge Mining, Inc. v. Indiana Unemployment Insurance Board*, 541 N.E.2d 550 (Ind. Ct. App. 1989). In that case, Green Ridge terminated Kraus's employment. Following his dismissal, Kraus filed a discrimination complaint before the Federal Mine, Safety, and Health Review Commission ("MSHA"). In his complaint, Kraus alleged that Green Ridge had dismissed him "because Green Ridge was cited by MSHA for failing to report to MSHA an injury incurred by Kraus at the workplace." *Id.* at 551. Green Ridge and Kraus then entered into an agreement under which Green Ridge paid Kraus $15,000, and Kraus "dropped the complaint." *Id.*

[19] Thereafter, Kraus sought unemployment with the Indiana Department of Employment and Training Services (the "Department"). Green Ridge disputed the claim and asserted that the $15,000 was deductible income. The Department determined that the payment was not deductible income but was

payment "made in consideration of Kraus'[s] dismissal and the release of Kraus'[s] complaint against Green Ridge." *Id.*

[20] On appeal, this court stated that, for Green Ridge to demonstrate the payment was deductible income, it must "show that the payment made to Kraus was intended to replace income lost during a period of unemployment." *Id.* at 552. The court then agreed with the Department that Green Ridge had paid Kraus "in consideration for [Kraus]'s dismissal of [the] complaint and [for] releas[ing] . . . [Green Ridge] from any known claim of [Kraus] against [Green Ridge]." *Id.* Further, the court concluded that "the removal of any possibility of a later finding of liability on the discrimination charge [was] of value to Green Ridge." *Id.* at 553. Accordingly, the court held that "Green Ridge paid Kraus to dismiss the discrimination suit, not to compensate Kraus for income lost due to unemployment" such that the payment "should not be considered deductible income." *Id.*

[21] Here, C.M. argues that *Green Ridge* "is directly on point in all material respects" because, "like the separated employee in *Green Ridge*," he "received the Plant Discontinuance Benefit because he entered into the Agreement." Appellant's Br. at 37. We, again, cannot agree. Although the payments in both *Green Ridge* and here were made pursuant to the terms of an agreement, that is where the similarities end. In *Green Ridge*, the employer paid Kraus to dismiss an active discrimination complaint, while Eaton paid C.M. to return items to the Human Resources department and not divulge company information. Further, while we acknowledge that C.M. also agreed to release and discharge Eaton from any

claim "whether known or unknown," Appellant's App. Vol. 2 at 9, there is a distinction between releasing a former employer from a hypothetical future lawsuit and releasing a former employer from a known and active discrimination claim.

[22] In any event, C.M. suggests that *Green Ridge* did not turn on whether Kraus's payment was connected to his MSHA complaint. *See* Appellant's Br. at 39. But in *Green Ridge* this court explicitly held that "Green Ridge paid Kraus to dismiss the discrimination suit." *Green Ridge*, 541 N.E.2d at 553. Therefore, contrary to C.M.'s claims, Kraus's dismissal of the active complaint was relevant to the court's holding that the payment did not constitute deductible income. There is no dispute here that C.M. did not have any active claims against Eaton. As such, *Green Ridge* is distinguishable and does not preclude the Board's determination that the lump-sum payment was severance pay.

[23] In short, the lump-sum payment falls within the usual definition of "severance pay," and there is nothing in the Agreement to demonstrate that Eaton paid C.M. $44,116.80 as an incentive to remain employed or that the payment was intended as something other than severance pay. Instead, the plain language of the Agreement clearly states that the lump-sum payment, which was based on C.M.'s length of service and corresponded to a year's worth of pay, was intended to replace lost income. Accordingly, we cannot say that the Board's determination that the lump-sum payment was severance pay is unreasonable.

B. Whether the Lump-Sum Payment Was Allocable

[24] C.M. next argues that the Board erred when it allocated the severance pay over fifty-two weeks. Particularly, he asserts that Eaton "did not intend for the Plant Discontinuance Benefit to be allocated to any week other than the week in which it was paid." Appellant's Br. at 32. Again, Indiana Code Section 22-4-5-2(b) provides that severance pay shall be allocated to the period for which it was made, and an individual receiving such payments shall not be deemed unemployed with respect to a week "during which . . . allocated deductible income equals or exceeds the weekly benefit amount" of the claim.

[25] C.M. contends that the payment was not allocable because he received the payment in one lump sum. Appellant's Br. at 32. In other words, C.M. appears to argue that a lump-sum payment cannot be allocated over time. However, C.M. does not cite to any authority to support this assertion, and, on the contrary, this court has affirmed the treatment of a lump-sum severance payment as deductible income over time. *See Willet v. Review Bd. of the Ind. Dep't of Emp. & Training Servs.*, 632 N.E.2d 736, 739–40 (Ind. Ct. App. 1994) (affirming the determination of the Board that the lump-sum severance payment received by Willet in an amount equal to twelve months' salary was deductible income as allocable wages over a period of time), *trans. denied*.

[26] Similarly, here, C.M. received a lump-sum severance payment in an amount equal to twelve months' wages. *See* Tr. 9–10. And C.M. has failed to demonstrate that the distribution of his severance as a lump-sum payment should have any effect on the treatment of those payments as deductible income

over fifty-two weeks. The Board's determination that the severance pay was allocable over fifty-two weeks is not unreasonable.

[27] In sum, the Board's determination that the lump-sum payment was severance pay is reasonable under the plain language of the Agreement. Also, the Board did not err when it allocated that payment over twelve months. Accordingly, the Board did not err when it concluded that C.M. was not entitled to benefits from the week of May 22, 2021, through the week of May 7, 2022.

[28] Affirmed.

Mathias, J., and Brown, J., concur.