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Sparks v. Laura Drake Insurance and Financial Services, Inc. Appellant's Reply Brief Dckt. 45420

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IN THE SUPREME COURT OF THE STATE OF IDAHO

THE STATE OF IDAHO

CARLA SPARKS

SSN: 

Claimant/Appellant

SUPREME COURT NO. 4520

Docket No. 45420-2017

Vs.

LAURA DRAKE INSURANCE AND

FINANCIAL SERVICES, INC

Employer/Respondent

And

IDAHO DEPARTMENT OF LABOR

APPELLANT'S BRIEF REPLY

For Claimant/Appellant

CARLA SPARKS

PO BOX 601

BUHL, ID 83316

For Employer/Respondent

LAURA DRAKE INSURANCE

AND FINANCIAL SERVICES INC

401 GOODING ST N STE 106

TWIN FALLS, ID 83301

For Representative/IDOL

DOUG WERTH

DEPUTY DEPARTMENT OF LABOR

317 W MAIN STREET

BOISE, ID 83735

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STATEMENT OF THE CASE

A. Nature of the Case

This action comes from the court for judicial review of the decision of the Idaho Industrial Commission (“Commission”), which upheld a previous decision which by Respondent Idaho Department of Labor (hereinafter “IDOL”). The decision which Claimant/Appellant Carla Sparks (Hereinafter “Sparks”) is challenging the initially issued by the IDOL appeals examiner and involved a challenge to benefits being sought by Sparks following her dismissal by her former employer, Laura Drake Insurance and Financial Services, Inc (hereinafter “Drake”)

B. Statement of Facts

There are false statements presented in the telephone hearing on April 26, 2017: Docket No. 421008639-2017. In the Appellant Brief presented by the DOL the statements that Drake discharged Sparks for employment-related misconduct is a false statement.

Findings in Fact

Reply to the C. Statements of Facts on page 3

C-2 FALSE STATEMENT: Claimant was not getting policy renewals done timely; she was not submitting reports timely:

FACT: RENEWALS WERE UP TO DATE TO APRIL 2017 IN FEBRUARY 2017.

C-3 FALSE STATEMENT: Employer pointed out the problems in claimant’s work,

FACT: Drake never pointed out any problems with my work.

TRUE STATEMENT: Drake never explicitly told Sparks she could be discharged if she did not improve.

C-4 FALSE STATEMENT: While on vacation Drake tried to phone in to speak with Sparks, and Sparks refused to speak to her

FACT: While Drake was on vacation she called the office and Hallie Drake asked Sparks if she needed to talk to Drake about. Sparks replied “no I do not have anything at this point in time.”

C-5 FALSE STATEMENT: Upon employer’s return a client’s proposal was not finished and Drake had to finish it herself

FACT: The client’s proposal was completed in time by Sparks. Sparks had trouble getting some of the spreadsheet cell fonts corrected and asked for Drakes help doing that.

C-6 FALSE STATEMENT: Sparks mistakenly issued and exchanged a short-term policy for a long term policy for a client. Sparks had known of the mistake for several weeks and had taken no action to remedy the error.

FACT: The short term (6 month) policy was issued for the client and replaced at a lower rate after the 6 month term which saved the client money. There was no lapse in coverage and lack of coverage during that period of time. It was to the clients benefit.

C-8 FALSE STATEMENT: Drake paid Sparks more wages than any other employer

FACT: Sparks has proof that Drake’s wages were well under other employers in the past.

There is a multitude of contradictory facts established in the record.

RESTATED ISSUES ON APPEAL

1. Has Drake stated the truth in her hearing comments?
2. Has Sparks given her sworn statements?

ARGUMENT

The request to re-open the evidentiary record from a hearing was not stating the commission was abusive. The request to re-open was because of the false statement made by Drake during the phone hearing. There is compelling evidence of the false statements.

REQUEST MADE TO THE SUPREME COURT

Sparks is asking the Supreme Court to not let Drake commit fraudulent statement and giving Sparks the opportunity to present her case under oath and bring forward the fact that Sparks was wrongfully terminated on February 22, 2017. Sparks was terminated due to Drake's emotional, unstable state of mind during that period of time. Drake was undergoing counseling to try to cope with her emotions.

EVIDENCE OF MISCONDUCT BY LAURA DRAKE

I am asking the court to look at the following evidence. Exhibit 1 & 2 & 3

I am attaching information regarding the way Drake does business. Written proof that she has put her clients in jeopardy of having no coverage.

Request to add vehicle for an insured June 23, 2017 via fax to Drake

October 31, 2017 – email from current agent to the insurance company stating:

It was just brought to my attention that the change never got made by the prior agent (DRAKE). Is there any way to backdate to 6/23/2017 – see attached fax confirmation that went thru – 2007 was supposed to be replaced by a 2017 Toyota Rav4. Let me know as soon as possible as the insured is waiting for an answer. Thank you

The reason this has been brought to the attention of the Court is to show that Drake has put her own agency in a large liability situation that Drake was accusing Sparks of doing and used this as one of the reasons to dismiss Sparks. Sparks did not put any of the clients in jeopardy of not having insurance to cover their needs.

CONCLUSION

Sparks request a hearing to present the facts in this case to have the unemployment claim hold true and not be revoked.

RESPECTFULLY SUBMITTED this 13th day of April 2018

Carla Sparks/Claimant Appellant



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of April 2018, I served 6 true copies of
the forgoing Appellant's Reply Brief by the method indicated:

IDAHO COURT OF APPEALS
PO BOX 83720
BOISE, ID 83720-0101

U.S. MAIL, POSTAGE PREPAID
Email: sctbreifs@IDcourts.net

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CARLA SPARKS

SSN: [REDACTED]

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And

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SUPREME COURT NO. 4520

Docket No: 45420-2017

MOTION TO FILE NON-CONFORMING APPELLANT BRIEF REPLY 4/13/2018

For Claimant/Appellant

CARLA SPARKS
PO BOX 601
BUHL, ID 83316

For Employer/Respondent

LAURA DRAKE INSURANCE
AND FINANCIAL SERVICES INC
401 GOODING ST N STE 106
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DOUG WERTH
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