

Issue: April 2016

Briefly: An Unemployment Case Analysis

Background

The claimant retired a few months after receiving a new manager. The claimant was disqualified from benefits upon a finding that she quit without good cause connected with the work. The claimant appealed, and a hearing was scheduled before an administrative law judge.

At the Hearing

The Claimant's Evidence: The claimant, a government worker, had been in the same position for about three years. When the claimant's manager was replaced, the new manager discovered that the claimant had not been performing all of the duties of the position she held, particularly administrative tasks. The new manager trained the claimant on the administrative tasks for three months. The claimant did not feel she was learning the tasks as well as she should. When the claimant learned she was to receive an unsatisfactory performance review, the claimant resigned, stating she was leaving to retire. She worked through her one month's notice.

The Employer's Evidence: The employer testified that the claimant's new manager, after a review of job descriptions, discovered that the claimant had not been performing a significant number of tasks required of someone in her position. The employer attempted to train her on the additional duties for a period of three months, during which the normal progressive discipline was waived. After three months, the employer was required to evaluate her work, and intended to give the claimant an unsatisfactory review. Rather than receive the review and attempt to improve her performance, the claimant retired. The claimant's job was not in jeopardy at the time she quit.

The Hearing Decision

The Administrative Law Judge found that the claimant was discharged from her old position because it was changed substantially, and that the claimant was essentially given a new position with new responsibilities. The ALJ allowed benefits, finding that the claimant refused the new work for good cause because the new position was not suitable due to her inability to satisfactorily perform the work. The employer disagreed and appealed, arguing that the claimant resigned but without good cause connected with the work. The claimant was given a substantial period of time to adjust under the new manager, but retired rather than continue her employment.

The Board of Review Decision

The Board of Review disagreed with the Administrative Law Judge and reversed the decision. The Board found that the ALJ's decision that the claimant was discharged and refused new work was in error. The claimant initiated the separation. Additionally, she had remained in her position for three months after being required to perform her administrative duties. As a result, the claimant had accepted any perceived change in the terms of her employment. Continuing work was available, she worked through her notice, and her job was not in immediate jeopardy. The Board found that she left her job without good cause connected with the work, and the claimant was disqualified from benefits.

Takeaways

1. **A significant change in position could change the nature of a separation for unemployment purposes.** If the terms of the claimant's employment are changed substantially, including those with regard to job duties, it could be found that the claimant was discharged from her old position and offered a new one. *If a claimant is unable to perform the new duties, or is otherwise significantly negatively affected by the change, states could find that there was a discharge from the old position and an offer of new work. If the new work is not suitable for the claimant under the law, benefits could be allowed.*
2. **A change in position does not necessarily mean a claimant will be awarded benefits.** In this case, the claimant remained employed for three months prior to her retirement announcement, and one month after. Even if the claimant's position had been substantially changed, the fact that the claimant stayed employed for such a long time meant that the new working conditions were not so intolerable that she had to leave her employment. *In similar cases, be prepared to prove that despite a change in circumstances, the claimant accepted the new terms by remaining employed for a period of time. This could negate a potential finding of a quit with good cause connected with the work. Please contact your unemployment consultants with questions.*

Please remember: Unemployment Laws vary from state to state. The result in this case might be different from a case in your state.

Equifax and EFX are registered trademarks of Equifax, Inc. Inform>Enrich>Empower is a trademark of Equifax, Inc. © 2016 Equifax Workforce Solutions. a/k/a TALX Corporation. a wholly owned subsidiary of Equifax Inc., Atlanta, Georgia. All rights reserved.