

Issue: July 2016

Briefly: An Unemployment Case Analysis

Background

The claimant quit her position after a schedule change request was denied. The claimant was disqualified from benefits upon a finding that she quit without good cause connected with the work. The claimant appealed. A hearing was scheduled before an administrative law judge.

At the Hearing

The Claimant's Evidence: The claimant, who worked in a call center, testified that she left her job after she was denied a schedule change. The claimant testified that her son and daughter in law needed help with babysitting, so the claimant requested a schedule change which would allow her to babysit her grandchild. The claimant was granted a temporary schedule change, but not a permanent one. The claimant's grandchild is bilingual, and the child's parents wished to find a babysitter who spoke the child's second language, but were unable to find one. The claimant and the child's parents therefore felt it was necessary for her to leave her employment to babysit the child.

The Employer's Evidence: The claimant approached the employer about a permanent schedule change, requesting to work nights so she could babysit. A permanent night schedule was not available, but the employer allowed the claimant to work a swing shift until the parents of the child could find a different babysitter. The claimant notified the employer that it was necessary for her to have a permanent schedule change so she could babysit. The employer could not accommodate that request, so the claimant left her job.

The Hearing Decision

The Administrative Law Judge found that the claimant quit without good cause and the original decision denying benefits remained in effect. The ALJ found that the claimant's reason for leaving did not rise to the level of good cause because it was entirely personal, and it was not proven that there were no other viable options available to the claimant. The claimant and her son and daughter-in-law made the decision not to consider any options other than having the claimant leave her job to care for the child. The claimant disagreed and appealed, arguing that the child's parents' schedules were not flexible and there was no other option for care of the child, and that she deserved the benefits because of her many years of paying into the unemployment system.

The Board of Review Decision

The Board of Review agreed with the Administrative Law Judge and the ALJ's decision remained in effect. The Board found that the ALJ's decision was supported by the record of evidence and the law, and added that the claimant did not pay into the unemployment system. The employer paid taxes based on the claimant's earnings. The claimant was disqualified from benefits.

Takeaways

1. **In some states, good personal cause could result in the payment of benefits.** In this case, it was found that the claimant's personal reason for leaving was not a reason which would have compelled a reasonable worker in the same circumstances to leave her job. *If a claimant leaves for personal reasons, be prepared to prove or argue that she had other options available to her, or argue that the claimant's circumstances were not so dire as to compel her to quit. In this case, it could be argued that the child's parents were responsible for the child's welfare, not the claimant, so a reasonable worker in the same circumstance would not be compelled to leave the job. It could be argued that the other options available were that the child's parents adjust their schedules, find a non-bilingual babysitter, or leave their own jobs to care for the child.*
2. **Workers do not pay into the unemployment system.** Claimants are frequently under the impression that one of the withholding items in their paycheck is similar to an insurance payment, and that they are entitled to have those payments returned to them in the form of unemployment benefits. *Claimants will aver at hearing, and in Board appeals, that because they already paid for the benefits, there should be no disqualification. For employers, it's generally not necessary to respond as the claimants' impressions are not based in fact. The administrative law judges and Boards of Review are experienced in this type of argument and will tend to reply with correct information when this issue is raised.*

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

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