

Issue: September 2016

Briefly: An Unemployment Case Analysis

Background

The claimant quit work due to perceived harassment and adverse working conditions. The claimant was disqualified from benefits upon a finding that he quit without good cause connected with the work. He appealed, and a hearing was scheduled before an administrative law judge.

At the Hearing

The Claimant's Evidence: The claimant testified that he heard a rumor that a coworker was questioning his sexual orientation to other coworkers. The claimant reported the issue to the Human Resources department as required by company policy, and his union representative was also informed. The claimant testified that the employer never informed him of an investigation or any outcome. Therefore, the claimant did not believe that the employer took the complaint seriously; he believed the workplace was hostile, and resigned as a result.

The Employer's Evidence: The claimant made a complaint about comments he had heard that a coworker had made. The employer initiated an investigation during which the coworker admitted making the comments as reported by the claimant. The coworker was suspended and given a warning. The employer did not inform the claimant of the investigation or the outcome, and testified it was because they were prohibited from doing so under the collective bargaining agreement. The claimant told the employer that the reason he was leaving his job was to pursue another career opportunity.

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 he failed to prove that the work had become unsuitable and because the claimant failed to go back to the Human Resources department to find out if they had done anything in response to his complaint. The claimant failed to prove that he had no reasonable alternative to leaving work. The claimant disagreed and appealed, arguing that the employer had an obligation to inform him of the outcome of his complaint, and the workplace was hostile to the claimant as a result of their failure to do so.

The Board of Review Decision

The Board of Review disagreed with the Administrative Law Judge and reversed the ALJ's decision. The Board found that the ALJ's decision was unsupported by the hearing record and allowed benefits. The claimant's belief that he was working in a hostile environment was reasonable because he was not made aware that the employer had taken any action to address his concerns. The hostile working environment led to good cause for the claimant's resignation.

Takeaways

1. **The claimant's perception of the working conditions is relevant in voluntary quit cases.** In this case, the claimant's belief that the working conditions were hostile was reasonable based on the information he had at the time that he quit. *If a claimant makes a complaint and the complaint is based in fact, and the complaint shows that the claimant's working conditions are such that a reasonable worker would be compelled to quit under the same circumstances, it is important to attempt to prove that the claimant was reasonably aware that the working conditions had somehow changed for the better.*
2. **Unaddressed harassment due to a claimant's sexual orientation or gender identity may be good cause to leave work under state unemployment laws.** Despite the fact that LGBT employees are not currently a protected class in every jurisdiction, harassment due to sexual orientation and gender identity may render an employee's working conditions so onerous that good cause to quit may be found. *If a claimant is reporting similar reasons for leaving work, be prepared to present evidence regarding your harassment policies, efforts the claimant made or did not make to make you aware of the problem, investigations, and disciplinary actions or other actions taken to make a claimant's working conditions more tolerable.*

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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