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UNFAVORABLE WORKING CONDITIONS

An employer has the right to make reasonable rules for his workplace. Leaving work because one disagrees with those rules is not leaving for good cause. The test is whether the rules are reasonable under the reasonable person standard. Leaving work because of the existence of conditions that are detrimental to one's health, safety or morals is leaving for good cause connected to the work. It must be noted that health can be physical or mental. Also, conditions that greatly increase stress can establish good cause. There must be some physical evidence, such as symptoms and documentation by a physician. There also must be no relief without quitting. Some conditions are generally considered intolerable by the reasonable person standard. Those would include drugs rampant in the workplace, harassment or discrimination, foul language, and verbal or physical abuse. The employee must establish that he took all reasonable available steps to protect his job, including informing the employer of the conditions and giving the employer an opportunity to correct the conditions. Working conditions that have changed to the detriment of the employee may establish good cause.

Quitting because of merely not getting along with one's coworkers or employer is not enough. It must be established that the job has been made untenable, that the employee has taken all possible steps to solve the problem, and the employer is either unwilling or unable to correct the situation.

UNFAVORABLE WORKING CONDITIONS

Disagreement with Employer Rules or Decisions

Case Application

97 AT 06214

Facts: Claimant was employed from November 1995 to May 1997. During the last week of August 1996, a new advertising director was hired. In October 1996, the new director redefined claimant's job duties. Claimant's commission income dropped \$50. Claimant discovered that her coworker was making slightly more than she was. Claimant noted that the director would assign her work not in her job description. Claimant tried to resolve the problem with the director, but the director told claimant in the final incident that the conversation was at an end and to be at work the next day. Claimant called the office manager to advise that she would not be back.

Held: Claimant did not provide any medical documentation that she was stressed and that stress caused her medical problems. Claimant did not meet the burden of proof.

Result: Benefits denied.

97 AT 5814 BR

Facts: Claimant left work after his employer promoted a fellow employee over him as a supervisor.

Held: Claimant's job duties changed constantly and claimant did not object until now. No good cause found.

Result: Benefits denied.

UNFAVORABLE WORKING CONDITIONS

96 AT 3998 BR

Facts: The employer alleges that claimant resigned when she wrote that she considered any contract between herself and the employer as null and void. Claimant asserts that the statement was not meant as a resignation but a refutation of the contract she had signed which said she would work two years following successful completion of a college course for becoming a registered nurse, if the employer paid for the full cost of the course.

Held: Given claimant's wording, it is easy to see how the employer thought she resigned. Claimant left work voluntarily without good cause.

Result: Benefits denied.

93 AT 5978 BR

Facts: Claimant was counseled concerning her behavior and was told her job was in jeopardy. Claimant asserts that during a counseling session the employer said, "no one really needs to know about this conversation." Claimant thought this meant he would not discuss it with anyone. Claimant quit when she discovered that the employer discussed the situation with one of her coworkers. The employer testified that he told his assistant to protect the work flow of business since the claimant's job was in jeopardy and she could be discharged at any time.

Held: The employer discussing the situation with the coworker was normal management procedure. No good cause found.

Result: Benefits denied.

UNFAVORABLE WORKING CONDITIONS

Drug Problem in the Workplace

Case Applications

80 BR 1843

Facts: Claimant testified there was a drug problem on the employer's premises and that was why he quit. The employer agreed that there was a problem with drugs.

Held: No employee should have to work where there is a drug problem. Good cause shown.

Result: Benefits allowed.

UNFAVORABLE WORKING CONDITIONS

False Accusations

Case Application

81 BR 705

Facts: Claimant was accused by two teenage customers of serving stale food. They reported that claimant served food from the trash. Claimant denied it and the cook that prepared the food advised that he had indeed cooked the food in question. The supervisor refused to accept the explanation and called the claimant a liar in front of other employees. Claimant quit.

Held: Claimant had evidence to establish that the working conditions were unsuitable and below industry standards. Good cause shown.

Result: Benefits allowed.

79 AT 4579; 79 BR 915

Facts: Claimant's ex-husband called her employer's wife and told her that claimant and the employer were having an affair. This was untrue, but the employer's wife threatened the claimant. Claimant later married and her ex-husband called again with the same lie. Again the claimant was threatened. Claimant quit her job and moved with her new husband.

Held: Good cause shown.

Result: Benefits allowed.

UNFAVORABLE WORKING CONDITIONS

Harassment

Case Applications

97 AT 1034 BR

Facts: Claimant worked for the employer for fourteen years. She resigned and accepted a separation agreement offered by the employer. She testified that she quit because of harassment from her supervisor and mistreatment by other employees in her unit.

Held: Claimant did not follow through with grievance procedures offered by the union nor did she talk to anyone. She never completed her application for a transfer. Her reason for quitting is not good cause.

Result: Benefits denied.

96 AT 6159 BR

Facts: Claimant quit because of ongoing harassment from a supervisor. The supervisor called her names and would not allow another employee to assist her in loading 3516 buckets even though that employee was willing and not busy. Claimant told the vice president of the problems and even was placed under a different supervisor. The former supervisor continued to harass her. Claimant told her employer who said she would have to deal with it.

Held: Claimant cannot be expected to accept harassment with the realization that she has no other recourse. Good cause.

Result: Benefits allowed.

95 AT 2358 R BR

Facts: According to claimant's testimony and the testimony of three other co-workers, claimant worked under tremendous harassment by a co-worker. Claimant reported the conflict to her supervisor several times, but nothing was ever done.

Held: Claimant had good cause for quitting.

Result: Benefits allowed.

UNFAVORABLE WORKING CONDITIONS

No Provision for Physical Needs

Case Applications

82 AT 7553

Facts: Claimant was 5' 10" and 375 lbs. He was hired as an over-the-road truck driver. He was assigned to a truck with a seat that was not large enough. He was then given a truck with a modified seat. The modified truck was sold and claimant was put back into a small seat. When the employer could not produce a truck with adequate seating, claimant quit.

Held: The employer was aware of claimant's physical dimensions when he was hired. The working conditions were modified by the employer to a point where claimant was unable to continue work. Good cause for quitting.

Result: Benefits allowed.

UNFAVORABLE WORKING CONDITIONS

Relationship with Co-Workers

Case Applications

89 AT 5348 BR

Facts: Claimant quit because of disagreement with the employer's daughter. Claimant was hired by the daughter but the daughter quit. The daughter was later hired back in a non-supervisory position, while the claimant had been given the daughter's duties. The claimant and daughter fought constantly and the claimant informed the employer that she was quitting.

Held: Although advised of a problem between the claimant and the daughter, the employer did nothing to correct the problem. Quit for good cause.

Result: Benefits allowed.

87 AT 5849 BR

Facts: Claimant quit because her co-workers constantly ridiculed her by calling her the employer's pet. Lewd remarks were made about the claimant and the employer. Claimant consulted the employer who counseled the co-workers, who denied the accusation. The employer offered to transfer the claimant away from the co-workers, but the claimant did not wish to work in the warehouse so she resigned.

Held: If the conditions were so bad, claimant would not have stayed sixteen months. The employer offered a good faith transfer and claimant refused. Good cause not shown.

Result: Benefits denied.

UNFAVORABLE WORKING CONDITIONS

Relationship with Employer

Case Applications

00 AT 3037 BR

Facts: Claimant worked for the employer for eight years. He had a new supervisor that he did not get along with. On January 26, claimant said he felt ill and since his supervisor was not there, he told his former supervisor he was going home and would call in the next morning. He called the next morning at 9:15 and asked if he could take one week of vacation. He had diabetes and his doctor told him to take time off work. A coworker said that claimant complained about the supervisor then cleaned out his desk. Claimant's supervisor said that he told claimant that he could not have vacation time because he left work without notice.

Held: Claimant was ill and told the only other person in the office he was ill. Claimant called in the next day. The Board of Review reversed the Appeal Tribunal and modified it to show that claimant was discharged pursuant to 2-406.

Result: Benefits allowed.

97 AT 06131 BR

Facts: Claimant had been transferred four times in his career. Each time was at his request and each time was an advancement. The final eight years were spent in the store in Durant, Ok. The employer alleged that he received complaints from the store employees under the claimant. There was no firsthand testimony from the employees. The employer started an investigation and informed the claimant he was to be transferred to a store in Perryton, Tx. Claimant declined the transfer.

Held: Claimant did not show a change in his contract of hire or that working conditions would significantly change with a move to Texas.

Result: Benefits denied.

UNFAVORABLE WORKING CONDITIONS

5 AT 2908 BR

Facts: Claimant was employed eighteen months and quit on or around December 5, 1994, after his employer threatened to discharge him and used an obscenity as he did so. The employer questioned whether claimant had actually been working while on the job. Claimant gave his two weeks notice.

Held: The acts of the employer, some of which occurred in front of other employees and bystanders, were sufficient to cause the employment to be untenable. Claimant has shown good cause.

Result: Benefits allowed.

94 AT 4769 BR

Facts: On December 8, 1993 and December 14, 1993, claimant approached an administrator to discuss company business. Claimant was met with language and actions which intimidated and threatened the claimant. On one occasion, the administrator apparently indicated he was so mad he “could rip (claimant’s) head off.”

Held: Claimant offered uncontradicted evidence. Claimant was subjected to conditions within her work environment that were not acceptable. The situation was untenable. Good cause.

Result: Benefits allowed.

See also Illness or Injury/ Job Related Stress; Leaving in Anticipation of Discharge, *81 AT 8355;82 BR 772*

UNFAVORABLE WORKING CONDITIONS

Request for Transfer Denied

Case Applications

90 AT 05956 BR

Facts: Claimant resigned her position because the workload had become too much for her, both in amount of work and amount of heavy lifting. Claimant said she tried to transfer, but was told she was too valuable in her position to be transferred. The supervisor agreed that claimant tried to transfer. He decided to deny the transfer.

Held: An employer has the right to direct the work force, but also has the responsibility to safeguard an employee's interests. Claimant was denied the transfer because she performed well in her present position, not because there were no openings or because she was not qualified. Good cause found for quitting.

Result: Benefits allowed.

81 BR 1575

Facts: Claimant quit because his repeated requests for a transfer to the day shift were not granted because he was not fast enough on his job to comply with the day shift requirements.

Held: Good cause not found for quitting.

Result: Benefits denied.

81 BR 1331

Facts: Claimant was burned while working in the furnace area and missed time from work. When he returned, he asked to be transferred to another area. The transfer was denied because there were no other openings at the time. Claimant failed to come to work for two days and the employer assumed that claimant had quit.

Held: There was no change in the working conditions. There was danger in the area where claimant worked but was the same for the other people in the area. Good cause not found.

Result: Benefits denied.

UNFAVORABLE WORKING CONDITIONS

Sexual Discrimination and/or Harassment

Case Applications

96 AT 9275 BR

Facts: Claimant left work after an altercation which allegedly occurred at the employer's office with a fellow employee. There were a series of incidents occurring over the past several years. Claimant provided witnesses which substantiated these allegations.

Held: Claimant took steps to resolve the situation. Claimant had good cause to quit.

Result: Benefits allowed.

89 AT 8508 BR

Facts: Claimant alleges that she left her employment because of sexual harassment. She worked for the employer for eight months and left because of sexual advances made by the owner toward her. Claimant described the incidents but in each incident only the claimant and the owner were present and the owner denied the incident.

Held: The Appeal Tribunal denied benefits finding that there was not enough evidence. Claimant worked for the employer on four different occasions and yet went back even though she alleges sexual harassment. Good cause not shown.

Result: Benefits denied.

88 AT 2738 BR

Facts: Claimant resigned because of sexual harassment. She alleges that over twelve years she was harassed by several principals and coworkers. She never filed a written complaint or grievance.

Held: Claimant had alternatives to quitting, but chose not to exercise them. Good cause not found.

Result: Benefits denied.

UNFAVORABLE WORKING CONDITIONS

Use of Foul Language

Case Applications

87 AT 7691 BR

Facts: Claimant quit due to excessive foul and abusive language used by her supervisor. She said there were several previous incidents where the supervisor used profanity in front of the claimant or made off-color remarks about the claimant's personal life in front of customers. She reported the last incident to a higher authority and did not return to work.

Held: The Appeal Tribunal denied benefits finding that claimant did not give the employer a chance to resolve the issue. The Board of Review reversed and allowed finding that no female employee should have to tolerate the foul language and verbal abuse to which she was subjected. Good cause shown.

Result: Benefits allowed.

81 BR 486

Facts: Claimant was Christian and the foul language used in the workplace caused her problems. She asked the president and vice president if something could be done about the language. Claimant's physician told her that stress from the job contributed to her problems and she should quit if this was true. Claimant had worked for the employer before and knew about the language.

Held: There was no material change in the employment that caused claimant to quit. The working conditions were not such that a person desiring work would be unable to do so. Good cause not shown.

Result: Benefits denied.

81 BR 157

Facts: Claimant left work because of the employer's excessive cursing. In one incident the employer began cursing. Claimant thought it was at him but it was at the business.

Held: The employer cursing at the business does not create a situation that requires an employee to quit. Good cause not shown.

Result: Benefits denied

UNFAVORABLE WORKING CONDITIONS

Verbal Abuse Causing Mental Stress

Case Applications

83 BR 2018

Facts: Claimant was subjected to verbal abuse and embarrassment by her supervisors and left her employment.

Held: No female should be subjected to verbal abuse and embarrassment in the workplace. The working conditions were untenable. Good cause shown.

Result: Benefits allowed.

81 BR 919

Facts: Claimant says that his supervisor harassed, cursed and threatened him. Claimant did everything he could from asking for a transfer to filing a complaint with the union. Nothing was done.

Held: There is no information from the employer discrediting claimant's story. The supervisor's threats constituted good cause.

Result: Benefits allowed.

81 BR 705

Facts: Claimant's supervisor called him a liar and accused him of losing his sanity in front of other employees.

Held: The actions of the supervisor rendered the job unsuitable and equaled good cause for quitting.

Result: Benefits allowed.

UNFAVORABLE WORKING CONDITIONS

80 AT 5031

Facts: Claimant quit her job because of her alcoholic boss. The boss drank heavily on the job and would become mean and sarcastic, harassing and verbally abusive. Claimant worked though it caused her extreme nervousness.

Held: The working conditions were untenable. Claimant was subjected to repeated harassment and verbal abuse. Good cause shown.

Result: Benefits allowed.

80 BR 1394

Facts: Claimant left employment because the supervisor made excessive demands of her and gave contradictory instructions. He was evasive and rude and made false accusations. He verbally abused her and made her cry. Claimant spoke with her supervisor and to the store manager, but realized there was no way to improve the situation so she quit.

Held: The job was untenable due to the treatment claimant received from her supervisor. Good cause shown.

Result: Benefits allowed.

See also Harassment.

UNSAFE WORKING CONDITIONS

No one should be required to work in dangerous or unsafe conditions. Working long hours when one's job involves heavy machinery or driving can place the employee or others at serious risk. Likewise, machinery which is not kept in good repair or which lacks the necessary safety devices can pose a threat to health. The employee must establish that the employer placed the requirement on the employee, that the employer was made aware of the problem and failed to correct it before good cause can be found for leaving the employment.

Good cause can also be established for leaving a hazardous job, if the employee was not aware of the hazards when accepting employment, or the hazards have increased or been made worse due to the employer's failure to provide adequate protection from the hazard. Some jobs are by their nature hazardous, e.g. a prison guard. A person accepts that employment with the prior knowledge and acceptance of the hazard. As long as the customary and reasonable protections are provided by the employer, a decision to quit would be without good cause.

UNSAFE WORKING CONDITIONS

Excessive Overtime Requirements

Case Applications

87 AT 2890 BR

Facts: Claimant was required to drive more hours than federal regulations allowed. Drivers who violated federal regulations were fined. Claimant felt the excessive hours were unsafe. He was told to continue, so he quit.

Held: Good cause shown.

Result: Benefits allowed.

See also Excessive Overtime/ Change in Terms or Conditions of Hire

UNSAFE WORKING CONDITIONS

Inexperienced Supervisors or Co-Workers

Case Applications

83 AT 1058; 83 BR 1686

Facts: Claimant quit because of his new driller's inexperience in drilling deep gas wells. The employer said the driller was qualified and the well was completed with no problems.

Held: Mere allegations of unsafe working conditions are not enough. There was no proof of unsafe working conditions.

Result: Benefits denied.

UNDAFE WORKING CONDITIONS

Injuries or Potential for Injuries on the Job

Case Law

Lyntone Belts, Inc. v. Shelly Meyers et al., Case No. C-90-152L

Facts: Defendant Meyers did not quit her job with good cause. She was advised by her doctor to not work in a poorly ventilated area where spray paint and thinners were used. There was no evidence that claimant's doctor investigated the area. Plaintiff presented the results of a State Department of Labor investigation which said there were no hazards in the air samples taken. Meyers was also offered maternity leave by plaintiff.

Held: Good cause not shown.

Result: Benefits denied.

Case Applications

90 AT 2184 BR

Facts: Claimant quit when the employer refused to provide proper safety equipment for use of the chemicals the employees worked with, and did not give raises as promised.

Held: The employer did not provide proper safety equipment. The cloth gloves were not chemical resistant. The risk to health was good cause.

Result: Benefits allowed.

90 AT 2028 BR

Facts: Claimant was assigned to a two-man team with a person with whom he did not get along. Claimant told his supervisor the man acted drunk and was not adequately doing his job. The supervisor ordered claimant back to his post and he left.

Held: The employer admitted the two men did not get along and the job was dangerous. There was evidence of unsafe conditions. Good cause shown.

Result: Benefits allowed.

UNSAFE WORKING CONDITIONS

Machinery Not in Good Repair

Case Applications

87 AT 2116 BR

Facts: Claimant worked for the employer for nine years with the last six months as a truck driver. On three occasions while driving a truck, the brakes failed. In another incident the front end of his truck fell out while he was driving causing him to lose control. He quit.

Held: Good cause shown.

Result: Benefits allowed.

UNSAFE WORKING CONDITIONS

Personal Attacks or Threat of Personal Attacks on Employees

Case Applications

77 AT SUA 338; 642 BR 77

Facts: Claimant was employed as a guard. Inmates made threats against him. He had problems with his supervisor. He was very nervous on the job. There was talk that the employer was putting claimant on the tower but it did not happen.

Held: Claimant knew the conditions he was getting into at the time of his hire. There was no evidence that he was ever promised the tower job. Good cause not shown.

Result: Benefits denied.

75 AT 5385; 666 BR 75

Facts: Claimant suffered bodily harm when he was attacked by a coworker. This was the second attack of this type. Claimant was injured so that she was off work for a period of time. After the first attack she went to the owner and asked for measures to be taken to avoid a similar incident. Claimant quit this time because she felt the owner could not help her.

Held: Leaving after the second attack is what any prudent employee would do. The employer was unwilling to help. Good cause shown.

Result: Benefits allowed.

UNSAFE WORKING CONDITIONS

Physical Assault (Robbery, etc.)

Case Applications

81 AT 3307; 81 BR 1255

Facts: Claimant was robbed one day on his shift. After working a few days after the robbery, claimant received crank phone calls. Claimant asked for a transfer, but it would be to a store in a less secure area. Claimant resigned.

Held: Claimant was given training on what to do in a robbery. He knew it was a possibility. There was no change in the terms of hire. Claimant left without good cause.

Result: Benefits denied.

75 AT 4409; 527 BR 75

Facts: Claimant was night manager at a grocery store. He asked the store manager for more help in operating the store after dark. The claimant's requests were unanswered even after the claimant was knifed and robbed.

Held: Good cause shown. The employer did not assist the claimant even after the physical danger was shown.

Result: Benefits allowed.

WAGES

The terms of employment are determined at the time of hire. Any substantial reduction in wages or compensation of any form would establish good cause for leaving. Wages are not limited to salary or hourly wages, but can include per diem allowances, and benefits, a reduction of which would materially alter the contract of hire or result in a substantial loss of pay. See the Union Relations for an exception. A mere pay dispute is not enough to establish good cause, but the failure of the employer to pay wages in a timely and accurate manner may establish good cause. A one-time delay or error in an employee's paycheck does not qualify. The problem must be persistent. It must be shown that the employer was made aware of the problem, was given an opportunity to correct it, and failed or refused to do so.

WAGES

Change in Per Diem Allowances

Case Applications

82 AT 9295; 83 BR 202

Facts: The employer eliminated claimant's per diem allowance because of depressed conditions in the oil and gas industry. Claimant would have incurred a loss of \$147 every two weeks.

Held: There was a good economic reason for the reduction, but the reduction was an adverse change in the hiring agreement. Good cause shown.

Result: Benefits allowed.

See also: Change in Terms or Conditions of Work

WAGES

Changes Pursuant to Union Contract

Case Applications

82 AT 6671; 82 BR 1580

Facts: Claimant was notified that he was to be laid off from his job, but he could accept a job at a lower classification. He would not have been prevented from returning to his new job if it became open. Claimant declined the offer in order to find a job with higher pay.

Held: The position change would only have cost claimant \$110 per month. It was only temporary, and, under the terms of the union contract, claimant could have remained employed. Good cause not shown.

Result: Benefits denied.

WAGES

Failure to Pay Promptly or Correctly

Case Law

Pruitt v. State ex rel. OESC, 918 P2d 80 (Ok Civ App 1996)

Facts: Claimant quit because the employer failed to timely pay commission that she says the employer owed her. The employer had not settled or paid commissions for July or August, a two-month period of claimant's employment at the time she quit on October 14, 1992.

Held: Good cause shown. The District Court and Supreme Court upheld.

Result: Benefits allowed.

Case Applications

90 AT 7707 BR

Facts: Claimant was a truck driver. Her employer made errors in her pay and she contacted payroll. They indicated she was paid by what the dispatcher reported. It was not correct. Claimant was also not reimbursed for phone bills and did not receive trip pay to which she was entitled. Claimant quit.

Held: The employer was not paying claimant correctly. Good cause shown.

Result: Benefits allowed.

83 BR 1024

Facts: Claimant quit because the employer was late in meeting payroll. The employer used a bank that was closed by the government and had asked employees to give them time to meet payroll for the preceding two-week period. All employees agreed to this. A few days later, claimant told the employer she found a job elsewhere.

Held: The delay in receiving pay did not equal good cause to quit.

Result: Benefits denied.

WAGES

Reduction in Wages

Case Law

R & R Engineering Co. v. OESC, Bd. of Rev., & Gilbert V. Farris, 737 P2d 118 (Okla 1987)

Facts: Farris resigned after being informed that he would receive a 16 2/3% reduction in pay due to poor economic conditions. All employees received a pay cut. Farris was the only one that resigned.

Held: Good cause shown. A pay cut in excess of 15% is excessive.

Result: Benefits allowed.

Case Applications

00 AT 4305 BR

Facts: Claimant was a loan originator for two years. Claimant was hired at a base salary of \$18,720 plus incentives for each loan he originated. In 1999, claimant earned \$36,778, which included over \$15,000 in incentive pay. During the last eight months of claimant's employment, the incentive program was reduced each month. Claimant quit.

Held: The Appeal Tribunal held that there was no guarantee of incentive pay. It was not cut, it was just reevaluated each month by the employer. There was nothing in writing to show that claimant was guaranteed incentive pay. Good cause not shown. The Board of Review held that the employer set a precedent, based on past performance, of paying incentives. These were part of claimant's wages. His wages were substantially reduced by the abolishing or adjusting of the incentives. Good cause shown by the substantial reduction of wages. Reversed.

Result: Benefits allowed.

WAGES

83 AT 12791; 83 BR 2996

Facts: Claimant left employment because wages were reduced by \$1.20 per hour due to economic reasons.

Held: The wage cut was reasonable in a time of economic hardship. The standard wage for riggers was between \$10 - 12.60. Claimant would now make \$12.30. Claimant's wages were suitable. Good cause not shown to refuse employment.

Result: Benefits denied.

83 AT 2733; 83 BR 936

Facts: Claimant was earning \$35 per day, then was promoted to \$45 per day, but was injured on the job. While gone she was replaced. When she returned it was to \$40 per day. Claimant first advised she would return, but then decided not to.

Held: The new salary was reasonable and did not render the job untenable.

Result: Benefits denied.

See also Change in Terms or Conditions of Work/Demotion and/or Pay Reduction

VOLUNTARY QUIT: TEMPORARY EMPLOYEES

Because of the proliferation of temporary employment and placement firms in recent years the legislature added a section to the Act effective in 1995 to deal with questions specifically related to temporary employees. The applicable section of the Act is as follows:

Section 2-404A. Leaving work voluntarily of temporary employee.

A. For the purposes of this section:

- 1. "Temporary help firm" means a firm that hires its own employees and assigns them to clients to support or supplement the client's work force in work situations such as employee absences, temporary skill shortages, seasonal workloads and special assignments and projects; and*
- 2. "Temporary employee" means an employee assigned to work for the clients of a temporary help firm.*

B. A temporary employee of a temporary help firm will be deemed to have left his or her last work voluntarily without good cause connected with the work if the temporary employee does not contact the temporary help firm for reassignment on completion of an assignment. A temporary employee will not be deemed to have left work voluntarily without good cause connected with the work unless the temporary employee has been advised of the obligation to contact the temporary help firm on completion of assignments and that unemployment benefits may be denied for failure to do so.

C. For the purposes of the Employment Security Act of 1980, the temporary help firm is deemed to be the employer of the temporary employee.

The requirement is the same for temporary employees as others to establish good cause; however, the temporary employee must meet additional requirements to establish that he is a temporary employee, and that he has contacted the employer for reassignment. It must also be shown that the temporary employer has advised the employee of the obligation to contact the temporary employer.

N.B. Re: Leased Employees: This section does not apply to leased employees or those who are hired with the intent of becoming permanent employees.

TEMPORARY EMPLOYEES

05-AT-05239-BR

Facts: The claimant was employed as general labor with a temporary employee service. The claimant notified her employer that she was unable to complete her assignment because her legs and feet were swelling. The employer advised the claimant that they would try to find her another assignment. They did not offer her another assignment.

Held: The claimant was still employed when she left her last assignment. She did make contact with her employer when she left that assignment; and, therefore, met her obligation to contact the employer. The law does not require that she make another contact with her employer. Her separation is due to lack of work and not misconduct connected to the work.

Result: Benefits allowed. Board of Review affirmed.

02-AT-9001-BR

Facts: The claimant worked for a temporary help agency. He was not satisfied with the employment because the agency required that he come in to their office each day for assignment and he was not always given an assignment, even when the employer he had worked for the day before has asked him to return. He last performed work for them on May 24th. He returned on May 30th to seek employment but was told they had no suitable work available.

Held: The claimant is only required to contact the temporary employer one time after his assignment ends. If the employer does not have work available, then he has good cause to leave that employer.

Result: Benefits allowed.

03-AT-0100-BR

Facts: The claimant worked for a temporary employment agency. She had been assigned to the employer's client for about five months. She was sexually harassed by a female coworker. When she reported it to the client company and her employer, she and the coworker were called in and she was required to apologize to the coworker for making the accusation. The claimant then asked the employer to find another placement for her. Approximately a month later, the sexual harassment began again. Because of the way she was treated in the first instance, the claimant did not report it again, but left the assignment. She asked the temporary employment agency for another placement, but no long-term work was available. The claimant then decided to move to California where she would have the assistance of friends and family.

Held: The claimant left her last assignment because of sexual harassment and unfair treatment. She contacted her employer for another assignment, but none was available to her. The claimant was discharged for lack of work. Quitting an assignment is not quitting employment.

Result: Benefits were allowed.

00-AT-04280

Facts: The claimant was employed as a temporary employee with a temporary help firm, assigned to various client businesses. His last assignment lasted three months and ended due to lack of work. He contacted his employer to collect his check two days after the end of the assignment. He did not advise his employer that day that he was ready for reassignment, because he was unaware it was necessary to do so and he was scheduled to have surgery the following week. He was still eligible for reassignment by the employer.

Held: The claimant's assignment ended due to lack of work. He contacted his employer at the end of the assignment. The fact that he could not accept another assignment because of medical reasons does not change the nature of his separation from work and is not disqualifying. The requirements of the Act were not imposed to punish those unable to take an assignment for a justified reason. The claimant was not discharged and he did not voluntarily quit work. He was separated for lack of work.

Result: Benefits allowed