

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2002-439

MARCH TERM, 2003

	}	APPEALED FROM:
	}	
Cathy M. Martorano	}	Employment Security Board
	}	
v.	}	
	}	DOCKET NO. 07-02-065-07
Department of Employment and	}	
Training	}	
	}	
	}	

In the above-entitled cause, the Clerk will enter:

Claimant Cathy M. Martorano appeals the Employment Security Board's determination that she is ineligible for unemployment benefits because she voluntarily left her employment without good cause attributable to her employer. Claimant maintains that her employer forced her to quit by treating her unfairly and discriminating against her because she had an injured wrist. We affirm.

The following facts are undisputed. Claimant was employed by Shaw's Supermarkets, Inc., for approximately one year. In March 2002, claimant had wrist surgery and became unable to work. Shaw's initially placed claimant on disability. When Shaw's received medical documentation asserting that the injury was work-related, it filed a workers' compensation claim. Claimant resumed work in April 2002 and was placed on light duty, which involved cleaning bathrooms and floors. On May 17, 2002, claimant called Shaw's to get her work schedule but the customer service assistant manager was too busy to give her the information. When claimant called back shortly thereafter and received her schedule, she informed the assistant manager that she had a doctor's appointment that conflicted with one of her assigned shifts. The assistant manager told claimant that she needed to talk to the customer service manager who was unavailable. Claimant became frustrated, called back again, and informed the assistant manager that she quit.

Claimant applied for unemployment compensation benefits but was found statutorily disqualified because she left her employment voluntarily without good cause attributable to her employer. See 21 V.S.A. § 1344(a)(2)(A). Claimant appealed, and the Employment Security Board sustained the determination. This appeal followed.

" A person is disqualified from receiving unemployment benefits if she voluntarily terminates employment " without good cause attributable to [the] employing unit." Allen v. Dep' t of Employment & Training, 159 Vt. 286, 289 (1992) (quoting 21 V.S.A. § 1344(a)(2)(A)). " This two-pronged standard requires a showing of a sufficient reason to justify the quit, and that the reason be " attributable' to the employing unit." Id. (internal citations omitted). A claimant bears the burden of establishing good cause, and we examine each case according to a standard of reasonableness. Skudlarek v. Dep' t of Employment & Training, 160 Vt. 277, 280 (1993). On appeal, we will not disturb the Board's factual findings and conclusions if they are supported by credible evidence. Allen, 159 Vt. at 289.

In this case, the Board concluded that claimant failed to demonstrate by a preponderance of the evidence that she had good cause attributable to the employer for preferring unemployment over continued employment. This determination is supported by credible evidence. Claimant has not shown that her employer acted unreasonably or was unresponsive to

her concerns. There is no support for her allegation that her employer " forced" her to quit by assigning her " the dirtiest jobs," nor is there support for her assertion that she was discriminated against because of her wrist injury. The record shows that claimant quit after becoming frustrated over a scheduling conflict. As the Board explained, there is no reason to believe that the scheduling conflict could not have been resolved if claimant had simply waited to speak to the person who had the authority to change the schedule. The Board' s determination that claimant was statutorily disqualified from receiving unemployment benefits is supported by credible evidence.

To the extent claimant raises other arguments on appeal, the briefing is so inadequate that we cannot discern them and therefore do not address them. See Johnson v. Johnson, 158 Vt. 160, 164 n.* (1992).

Affirmed.

BY THE COURT:

Jeffrey L. Amestoy, Chief Justice

Denise R. Johnson, Associate Justice

Frederic W. Allen, Chief Justice (Ret.),

Specially Assigned