

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

ENTRY ORDER

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

SUPREME COURT DOCKET NO. 2008-495

MAY 29 2009

MAY TERM, 2009

Virginia Vermette	}	APPEALED FROM:
	}	
	}	
v.	}	Employment Security Board
	}	
	}	
H & M Enterprises, Inc.: Mary's Restaurant/DOL	}	DOCKET NO. 09-08-127-07
	}	

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

Claimant appeals from a denial of unemployment benefits. Claimant argues that the Employment Security Board's decision that she voluntarily quit her job without good cause attributable to her employer is not supported by the evidence. We affirm.

Claimant filed for unemployment benefits on September 2, 2008. The Claims adjudicator found that claimant left employment voluntarily without good cause and that she was disqualified from benefits. Following a telephonic hearing, an administrative judge sustained the decision.

The judge found the following facts. Claimant began working for employer, H & M Enterprises, Inc., in August 2007 as a housekeeper at \$9.00 an hour. According to claimant, at the time she was hired, employer told her that if she did a good job, at the end of three months she would get a raise. Her duties included general housekeeping at a small inn and restaurant: vacuuming, cleaning rooms, and doing laundry. Claimant felt that there was too much work for one person and had difficulty completing all the tasks required of her. At no point did she complain to her employer that the work was too much. On December 24, 2007, she was upset by the amount of work she was expected to complete and left without telling anyone. At the hearing, she testified she was also upset because she felt that she was entitled to a pay raise. She never returned to work. The administrative judge concluded that claimant did not have good cause for leaving because claimant had never notified employer of her complaints.

Claimant field an appeal with the Board, and, following a hearing, the Board incorporated the judge's findings and affirmed the decision. The Board concluded that claimant was disqualified from benefits under 21 V.S.A. § 1344(a)(2)(A) because she left her employment voluntarily without good cause attributable to that employment unit. Claimant appeals.

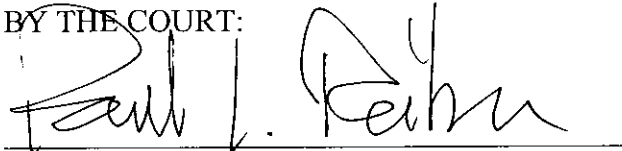
"The question of whether a resignation is for good cause attributable to the employer is a matter within the special expertise of the Board, and its decision is entitled to great weight on appeal." Cook v. Dep't of Employment & Training, 143 Vt. 497, 501 (1983). On appeal, we will affirm the Board's findings of fact if they are supported by credible evidence. Id. A claimant bears the burden of demonstrating that her resignation was for good cause. Isabelle v.

Dep't of Employment & Training, 150 Vt. 458, 460 (1988). Good cause is measured by a standard of reasonableness. Id.

In this case, claimant's testimony supports the Board's decision that there was no just cause attributable to employer. Claimant testified that she did not speak to her employer about reducing her job duties. "[A]n employee must make some effort to remedy alleged poor working conditions or else demonstrate that such effort would be unavailing." Rushlow v. Dep't of Employment & Training, 144 Vt. 328, 331 (1984) (quotation omitted). Although claimant states that it would have been futile to speak to her employer, claimant did not produce any evidence to demonstrate why this was so. Similarly, claimant's testimony supports the Board's decision that employer's failure to give claimant a raise was not good cause for quitting. While failure to give a promised raise may establish good cause, the raise must be part of an employment promise. See Shorey v. Dep't of Employment Security, 135 Vt. 414, 414 (1977) (per curiam) (holding that employee had good cause to leave where employer did not follow through on express promise that employee would get a pay raise). Claimant argues that she was entitled to a raise, but testified that the offer of a raise was conditional and that no express promise was made. Furthermore, claimant testified that she did not speak to employer about the raise prior to leaving. Without making some effort to remedy the situation before simply walking away, it was within the Board's discretion to conclude that claimant did not meet her burden of demonstrating that her resignation was for good cause attributable to her employer.

Affirmed.

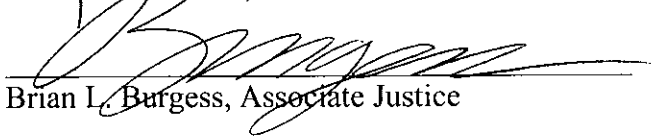
BY THE COURT:



Paul L. Reiber, Chief Justice



Denise R. Johnson, Associate Justice



Brian L. Burgess, Associate Justice