

NOT DESIGNATED FOR PUBLICATION

ALINE GEORGE * **NO. 2002-CA-1165**
VERSUS * **COURT OF APPEAL**
GAREY FORSTER, * **FOURTH CIRCUIT**
ADMINISTRATOR OF THE * **STATE OF LOUISIANA**
LOUISIANA DEPARTMENT *
OF LABOR, AND 2200
WESTBEND LIMITED *
PARTNERSHIP, D/B/A *
SHADOW BROOK *
APARTMENTS * * * * *

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2001-15818, DIVISION "G-11"
Honorable Robin M. Giarrusso, Judge

* * * * *

Judge Dennis R. Bagneris, Sr.

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(Court composed of Judge James F. McKay, III, Judge Dennis R. Bagneris, Sr., and Judge Michael E. Kirby)

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SHADOWBROK APARTMENTS**

AFFIRMED

Plaintiff seeks review of the trial court's judgment affirming the Board of Review's decision that she was ineligible for unemployment compensation benefits. Plaintiff argues that the Administrative Law Judge erred when he determined that the plaintiff left her employment without good cause attributable to a substantial change in her employment by her employer.

The plaintiff was employed as a property manager at the Shadow Brook apartment complex from July 2000 to May 21, 2001. Plaintiff's supervisor, Sheyda Chaney, had a "hands-on" management style and frequently questioned the plaintiff's authority. The plaintiff stated that for the first six months, Ms. Chaney treated her fairly and with respect. Subsequently, Ms. Chaney's attitude toward her changed. Ms. Chaney used vulgar language on the telephone. An incident concerning the hiring of a housekeeper "broke the camel's back", and the plaintiff resigned her

position on May 21, 2001.

The plaintiff filed an application for unemployment compensation benefits. The agency denied benefits, finding that the plaintiff left her employment without good cause attributable to a substantial change made to the employment by the employer. The plaintiff appealed the decision. A hearing before an administrative law judge was held on July 30, 2001. The administrative law judge affirmed the agency's decision. The plaintiff then sought review from the Board of Review which upheld the administrative law judge's ruling on August 8, 2001. The plaintiff filed a petition for judicial review of the Board of Review's decision in the Civil District Court for the Parish of Orleans. The trial court affirmed the Board of Review's decision on April 17, 2002. The plaintiff now appeals the trial court's ruling to this Court, arguing that the trial court erred in affirming the Board of Review's decision that the plaintiff lacked good cause to quit under La. R.S. 13:1601(1) when the testimony was undisputed that the employer subjected plaintiff to verbal abuse and unfair treatment after she had been working without incident for the first six months.

The Louisiana employment security law is remedial in nature. The courts should interpret it to extend its benefits as far as possible within the bounds imposed by express legislative restrictions. Coleman v. Blache, 566

So.2d 181 (La. App. 2 Cir.1990). The standard of judicial review of decisions made by the administrative law tribunal concerning unemployment benefits is governed by La. R.S. 23:1634, which provides in pertinent part:

the findings of the board of review as to the facts, if supported by sufficient evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the [reviewing] court shall be confined to questions of law.

Therefore, on judicial review in unemployment compensation cases, the reviewing court must determine whether the findings of fact by the Board are supported by sufficient evidence and, if so, whether the decision of the Board is correct as a matter of law. Unemployment benefits are awarded in accordance with La. R.S. 23:1600; disqualification criteria for benefits are provided in La. R.S. 23:1601. General Motors Corp. v. Darby, 31516 (La. App. 2 Cir.1/22/99), 728 So.2d 516. An individual shall be disqualified for benefits if the administrator finds that she has left her employment from a base period or subsequent employer without good cause attributable to a substantial change made to the employment by the employer. La. R.S. 23:1601(1)(a).

When a claimant voluntarily leaves her employment, she must show that she left with good cause connected with her employment in order to receive benefits. Good cause is more than mere dissatisfaction with the working conditions. The good cause contemplated by the statute must be

from a cause that would reasonably motivate the average able-bodied and qualified worker in a similar situation to give up his or her employment. The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman and not the supersensitive. Good cause connected with employment means a cause connected with working conditions, ability of the employee to continue employment, availability of transportation to and from work, and other factors which affect the employee's ability or right to continue work or which affect the benefits he may receive from his employer either upon continuation of the work or on retirement. Coleman v. Blache, supra.

Dissatisfaction with working conditions does not constitute "good cause" unless the dissatisfaction is based on discriminatory, unfair or arbitrary treatment, or is based upon a substantial change in wages or working conditions from those in force at the time the claimant's position began. Nason v. Louisiana Dept. of Employment Sec., 475 So.2d 85 (La. App. 2 Cir.1985); Lewis v. Administrator, 540 So.2d 491 (La.App. 1 Cir.1989). In both Nason and Lewis, supra, the claimants were entitled to benefits because they had been given substantial decreases in wages.

In Coleman v. Blache, supra, the library employee was twice placed upon probation for sullenness, poor attitude, and criticism of others. During

the second probation, her supervisor extended the probation period.

Claimant requested the library director review the matter and terminate the probation. If the director's conclusion was unfavorable, claimant stated she would resign "with no hard feelings." The director found claimant's supervisor acted properly, and claimant resigned. The claimant was not entitled to benefits because she voluntarily left without good cause when she resigned rather than modify her behavior to accommodate the reasonable demands of her employer.

In Rogers v. Doyal, 215 So.2d 377 (La. App. 2 Cir.1968), the claimant quit because she objected to being changed from the day to the night shift because it interfered with her time with her children. The legal evidence supported the finding that claimant left for personal reasons and was not qualified for benefits. Similarly, in Blanke v. Masaraccia, 470 So.2d 332 (La. App. 5 Cir.1985), the claimant quit due to his increased work and insufficient pay raise. Before the promotion and pay raise, claimant was advised of the increased duties and hours. The claimant left voluntarily because he was dissatisfied, which did not constitute the statutorily required good cause.

Courts may not disturb factual findings of the Board of Review when questions of weight and credibility are involved and when the conclusions

are supported by sufficient evidence. Lewis v. Administrator, 540 So.2d 491 (La. App. 1 Cir.1989); O'Neal v. Blanche, 482 So.2d 700 (La. App. 1 Cir.1985). Judicial review of the findings of the Board of Review does not permit weighing of evidence, drawing of inferences, re-evaluation of evidence, or substituting views of the court for that of the Board as to the correctness of the facts presented. Lewis, 540 So.2d at 496. An employee's sworn testimony alone may constitute sufficient evidence to meet the requirements of La. R.S. 23:1634. Lewis, 540 So.2d at 496.

In the case at bar, the plaintiff has not shown that there was a substantial change in her employment due to her employer. The incidents of which the plaintiff complained at the administrative hearing, i.e., the cursing on the telephone, the hiring of the housekeeper and the computer problem, did not reveal a change in the plaintiff's employment but were an indication that Ms. Chaney was becoming more "hands on" in the decisions to be made for the apartment complex. While Ms. Chaney became more "hands on" during the latter part of the plaintiff's employment, the plaintiff knew of Ms. Chaney's management style prior to accepting the job. She acknowledged that she had previously worked with Ms. Chaney at another apartment complex. The testimony also indicated that there might have been a breakdown in communication between the plaintiff and Ms. Chaney.

Such situations might create dissatisfaction with one's employment. However, dissatisfaction that is not caused by discriminatory, unfair or arbitrary treatment is not sufficient to create good cause for leaving one's employment. The evidence presented by the plaintiff revealed that her employer was not being discriminatory, unfair or arbitrary. Nor did the evidence reflect a change in the plaintiff's working conditions. Ms. Chaney's actions were solely the result of her management style and were not sufficient to create to substantial change in the plaintiff's employment.

AFFIRMED