IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Brandylee Veanus,	:	
Petitioner	:	
	:	
v.	:	No. 1218 C.D. 2009
	:	SUBMITTED: December 18, 2009
Unemployment Compensation	:	
Board of Review,	:	
Respondent	:	

BEFORE: **HONORABLE BONNIE BRIGANCE LEADBETTER,** President Judge
HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE MARY HANNAH LEAVITT, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
PRESIDENT JUDGE LEADBETTER **FILED:** January 28, 2010

Brandylee Veanus petitions, *pro se*, for review of the order of the Unemployment Compensation Board of Review (Board), which denied her unemployment compensation benefits on the ground that she voluntarily terminated her employment without a necessitous and compelling reason.[1] The question presented for review is whether Veanus made a reasonable effort to preserve her employment. We conclude she did not, and therefore affirm.

[1] Pursuant to Section 402(b) of the Unemployment Compensation Law, Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 802(b), an employee is ineligible for compensation for any week in which her unemployment is due to "voluntarily leaving work without cause of a necessitous and compelling nature . . . ."

Veanus began work in the billing department of Excel Care Pain Management (employer) in November 2007, and three days after starting work she informed her employer that she was pregnant. Employer's practice administrator, Lisa Roche, met with Veanus to explain the company's maternity leave policy. It is undisputed that Veanus and Roche reviewed the Employee Handbook section on medical and maternity leave together, that they discussed a maternity leave of six weeks, and that Roche informed Veanus that leaves could last up to eight weeks. The Employee Handbook states that for medical or maternity leave "[a] total of up to eight (8) work weeks of leave during a 12 month period will be considered. Length or extension of a leave will be assessed on a case to case basis at the discretion of the employer." Exhibit C-1 to Notes of Testimony.

Veanus began her leave on May 14, 2008, and gave birth to her son on May 18. Veanus had difficulty getting her son to take milk from a bottle, and was still breast feeding as she approached the scheduled end of her maternity leave on June 30, 2008. Because of this, she did not feel ready to return to work, so she, without any discussion with Roche or anyone else at her employer's office, went into her workplace on June 27, collected her personal belongings, and made her way to the parking lot. In the parking lot, Roche met her, and asked if she was quitting her job. Veanus replied that she was, and Roche told her that she would owe employer the employee contribution to that month's health insurance premium. Veanus did not reply, and drove away.

Veanus asserts that she felt Roche was unapproachable, that the six-week length of her leave was immutable, and that therefore any request for additional time would be futile.

Section 402(b) of the Unemployment Compensation Law[2] provides that those who leave their employment voluntarily must show necessitous and compelling cause to be eligible for unemployment compensation. In order to show necessitous and compelling cause, the claimant must establish that circumstances existed which produced real and substantial pressure to terminate the claimant's employment; like circumstances would compel a reasonable person to act in the same manner; the claimant acted with ordinary common sense; and the claimant made a reasonable effort to preserve his or her employment. *Brown v. Unemployment Comp. Bd. of Review*, 780 A.2d 885, 888 (Pa. Cmwlth. 2001); *Fitzgerald v. Unemployment Comp. Bd. of Review*, 714 A.2d 1126, 1129 (Pa. Cmwlth. 1998).

Assuming that Veanus' desire to continue nursing her newborn was a real and substantial pressure, Veanus' claim fails because she did not make a reasonable effort to preserve her employment. Though her leave was scheduled to last for only six weeks, the Board found and the evidence supports that she had received an Employee Handbook that stated that the employer would consider requests for leaves of up to eight weeks "on a case to case basis." Making a reasonable effort to preserve employment in this situation would involve, at a bare minimum, telling the employer about the problem and requesting an extended leave. *See Mauro v. Unemployment Comp. Bd. of Review*, 751 A.2d 276, 279 (Pa. Cmwlth. 2000) (asking for a change of schedule is a reasonable effort). Veanus' assertion that Roche was "unapproachable" comes with no supporting evidence, and does not, by itself, justify unilaterally and abruptly terminating the

[2] Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 802(b).

employment relationship without ever attempting to communicate the problem to the employer.

Because Veanus voluntarily left her job without making a reasonable effort to preserve her employment, the Unemployment Compensation Board of Review was correct in concluding that she was ineligible for benefits.

BONNIE BRIGANCE LEADBETTER,
President Judge

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Unemployment Compensation Board of Review, Respondent	:	

O R D E R

AND NOW, this 28th day of January, 2010, the order of the Unemployment Compensation Board of Review in the above- captioned matter is hereby AFFIRMED.

BONNIE BRIGANCE LEADBETTER,
President Judge