

Claimant worked as a Corrections Officer 1 for the State Correctional Institution in Fayette County (SCI-Fayette or Employer) starting March 12, 2007. (UCBR's Findings of Fact, No. 1.) Soon after accepting the position at SCI-Fayette, Claimant purchased a home in Crescent, Pennsylvania, which was approximately 66 miles from SCI-Fayette. (UCBR's Findings of Fact, Nos. 2-3.) Claimant's home in Crescent is only six miles from the State Correctional Institution in Pittsburgh (SCI-Pittsburgh). (UCBR's Findings of Fact, No. 5.) Claimant accepted the job at SCI-Fayette with hopes of transferring to SCI-Pittsburgh. (*Id.*)

On November 27, 2007, Claimant filed a request for a hardship transfer to SCI-Pittsburgh, which was denied. (UCBR's Findings of Fact, Nos. 8-9.) In March 2008, Claimant took a job with the Public Utility Commission (PUC), which paid more and included a state vehicle. (UCBR's Findings of Fact, No. 10.) Claimant did not pass the probationary period with the PUC and was subsequently accepted back at SCI-Fayette. (*Id.*)

On September 9, 2009, Claimant again put in for a hardship transfer to SCI-Pittsburgh. (UCBR's Findings of Fact, Nos. 13-14.) Claimant's request was denied on December 10, 2009. (UCBR's Findings of Fact, No. 15.) Claimant would not be eligible for a regular transfer to SCI-Pittsburgh until he had two unbroken years of duty at SCI-Fayette. (UCBR's Findings of Fact, No.16.) Claimant resigned from his position with SCI-Fayette, effective January 23, 2010. (UCBR's Findings of Fact, No. 19.)

Claimant filed a claim for unemployment benefits, which was denied by the local service center on March 5, 2010. Claimant appealed to the referee, who held an evidentiary hearing. Claimant testified on his own behalf and presented the testimony of Erin Keeney, Claimant's fiancé. Employer presented the testimony of Kristin Carney, a human resource analyst. Claimant did not contest that he voluntarily left his employment, but Claimant testified that he believes that he did so due to a necessitous and compelling cause. The referee ultimately concluded that Claimant failed to show that he took sufficient steps to alleviate his financial condition in order to maintain his employment and denied Claimant benefits.

Claimant appealed to the UCBR, which upheld the referee's decision and concluded that Claimant did not meet his burden of showing cause of a necessitous and compelling nature for quitting his job. Claimant now petitions for review of that decision, asserting that the UCBR erred in finding him ineligible for benefits under section 402(b) of the Law.² We disagree.

The only issue before this court is whether there was a substantial unilateral change in the employment agreement when Claimant left the PUC and returned to SCI-Fayette.³

² Our scope of review is limited to determining whether constitutional rights were violated, an error of law was committed, or findings of fact were unsupported by substantial evidence. Section 704 of the Administrative Agency Law, 2 Pa. C.S. §704.

³ All other issues Claimant raises in his brief are deemed waived, as they were not addressed in Claimant's petition for review before this court. *See, Tyler v. Unemployment Compensation Board of Review*, 591 A.2d 1164, 1168 (Pa. Cmwlth. 1991).

The claimant has the burden of proving that his cause for voluntarily leaving employment was of a necessitous and compelling nature. *First Federal Savings Bank v. Unemployment Compensation Board of Review*, 957 A.2d 811, 816 (Pa. Cmwlth. 2008), *appeal denied*, 601 Pa. 685, 970 A.2d 1148 (2009). A claimant's initial acceptance of a job presumes its suitability. *Speck v. Unemployment Compensation Board of Review*, 680 A.2d 27, 30 (Pa. Cmwlth. 1996). Once a claimant accepts a job as suitable and then subsequently quits, the claimant must show a substantial unilateral change in the employment agreement, the existence of conditions of which he was unaware when he accepted the position, or that he was deceived as to the conditions of his employment. *Id.*

Claimant contends that being forced to return to his position at SCI-Fayette after failing to pass his probationary period with the PUC was a substantial and unilateral change in his position with the state. However, Claimant's position with SCI-Fayette did not change at all, and, although Claimant was forced to leave his probationary position with the PUC, Claimant was not forced to return to SCI-Fayette. Indeed, Claimant could have refused to return to SCI-Fayette, but instead worked at SCI-Fayette for over a year before quitting.⁴ Because there was no substantial or unilateral change in Claimant's employment at SCI-Fayette, Claimant did not have a necessitous and compelling reason for leaving that position. *Speck*, 680 A.2d at 30.

⁴ Claimant returned to SCI-Fayette in September 2008 and resigned from that position in January 2010.

Accordingly, we affirm.

ROCHELLE S. FRIEDMAN, Senior Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jeremy L. Sherbondy,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 1512 C.D. 2010
	:	
Unemployment Compensation	:	
Board of Review,	:	
	:	
Respondent	:	

ORDER

AND NOW, this 15th day of March, 2011, the order of the Unemployment Compensation Board of Review, dated June 24, 2010, is hereby affirmed.

ROCHELLE S. FRIEDMAN, Senior Judge