

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
LARRY D. VAUGHT, JUDGE

DIVISION I

E06-269

June 13, 2007

MARY F. HAUSER

APPELLANT

APPEAL FROM THE ARKANSAS
BOARD OF REVIEW
[NO. 2006-BR-01199]

V.

DIRECTOR, DEPARTMENT OF
WORKFORCE SERVICES and
SUPERIOR MAZDA

APPELLEES

AFFIRMED

Mary Hauser was disqualified for unemployment benefits by the Employment Security Department on the grounds that she left her last employment voluntarily and without good cause connected to the work. This decision was affirmed by both the Appeals Tribunal and the Board of Review. Hauser argues that the findings of the Board of Review are not supported by substantial evidence. We disagree and affirm.

Hauser worked for Superior Nissan, located in Fayetteville, for seven years as the office manager. In February 2006, she asked Avis Bailey, one of the owners of the dealership, if she could be transferred to Superior Mazda in Bentonville. Hauser testified that she was moving to Bella Vista, which would have been about a ten to fifteen minute commute to Bentonville, as compared to the sixty-minute commute to the Fayetteville dealership. While working for

Superior Nissan, Hauser earned \$6000 per month and received employee benefits along with four weeks of vacation. In exchange for the transfer, Hauser agreed to a pay cut to \$5000 per month. The rest of her benefits and vacation time were to remain the same. This arrangement was memorialized, and Hauser began working at Superior Mazda on May 1, 2006.

Hauser testified that on May 4, 2006, Bailey, accompanied by Betty Thomas, a consultant, advised Hauser that her position was being eliminated effective Friday, May 5, 2006. Bailey further advised that most of the office functions were being consolidated in the Fayetteville office and that Thomas would be supervising that office as of June 1. Bailey did not offer Hauser another job or a transfer. Bailey did, however, advise Hauser that she would need to deal with Thomas about employment. Bailey then left the office.

Thomas discussed a new position at the Fayetteville dealership with Hauser. Thomas advised that Hauser's pay and benefits would remain the same. While Hauser had concerns about the details of the new job, she did not pursue the issue immediately because a co-worker was present.

The next day, May 5, 2006, Hauser returned to work and called Thomas to discuss the details about the new position in Fayetteville, as well as her prior arrangement with Bailey regarding the Bentonville position. Thomas, according to Hauser, went "ballistic" and yelled at Hauser that the terms of the new job in Fayetteville included a \$5000 per month salary, benefits, and only two weeks vacation "like everyone else." Hauser testified that she tried to

call Bailey two or three times that same morning to discuss the situation but was never able to reach her. Hauser made no other attempts to contact Bailey or Thomas.

Hauser testified that around 2:00 p.m. on May 5, movers came into the office and packed up the desks and computers. At that time, Hauser approached her supervisor Ken Porter and asked if there was anything else she could do for the day. He responded “no,” and Hauser left. Hauser testified that Thomas tried to call Hauser the following Monday. Hauser did not return Thomas’s call.

Neither Bailey nor Thomas testified in this case. The only witness to testify on behalf of the employer was Rob Busted, the office manager of the Fayetteville dealership, who admitted that he had no personal knowledge of the events surrounding Hauser’s departure from Superior Mazda. Busted testified that several other office managers whose positions were eliminated were offered (and accepted) new positions at the central office in Fayetteville.

The Board of Review found that Hauser voluntarily left her work without good cause connected to the work. The Board noted that Hauser was offered a new job in Fayetteville and then listed some of the reasons Hauser did not pursue that job: extended commute; employer refused to put job details in writing; and reduced compensation. The Board found that while Hauser may have attempted several times to contact the owner on May 5, she did not make any further attempts thereafter, despite the fact that Thomas tried to call Hauser on May 8, possibly to ascertain why she was not at work. The Board concluded that “the claimant’s failure to attempt to resolve the situation indicates that she had no desire to continue working for the employer if she had to work in Fayetteville” and that “the

claimant's failure to take appropriate steps to rectify the problem by discussing the situation with the owner ... is evidence that she has not established good cause to leave the employment.”

On appeal, we review the findings of the Board in the light most favorable to the prevailing party, reversing only where the Board's findings are not supported by substantial evidence. *Carpenter v. Director*, 55 Ark. App. 39, 929 S.W.2d 177 (1996). Even when there is evidence upon which the Board might have reached a different decision, the scope of our judicial review is limited to a determination of whether the Board could reasonably reach its decision upon the evidence before it. *Clafin v. Director*, 53 Ark. App. 126, 920 S.W.2d 20 (1996).

Whether there is good cause for an employee to quit her job is a question of fact. *Clafin*, 53 Ark. App. at 127, 920 S.W.2d at 21. “Good cause has been defined as a cause that would reasonably impel the average able-bodied, qualified worker to give up his or her employment.” *Carpenter*, 55 Ark. App. at 41, 929 S.W.2d at 178. A factor in determining good cause is “whether the employee took appropriate steps to rectify the problem.” *Clafin*, 53 Ark. App. at 128, 920 S.W.2d at 22.

Viewing the evidence in the light most favorable to the Board, we hold that there is substantial evidence to support its finding that Hauser voluntarily quit her position without good cause connected with the work, and more specifically, that Hauser failed to take appropriate steps to rectify the problem by discussing the situation with the owner.

The undisputed evidence in this case shows that Hauser's position was eliminated but that she was offered another job with the employer. We note that the new job offered to

Hauser would have required her to take a pay cut, increase her commute, and reduce her vacation time. However, testimony from the employer confirmed that several other office managers who lost their office-manager positions accepted new positions at the central office. Other evidence indicated that the employer was expecting Hauser to appear at work Monday, May 8, and when she did not do so, the employer attempted to call Hauser. Hauser did not return the call. Further, Hauser took no steps, beyond a couple of phone calls to Bailey (whom Hauser had worked with for seven years) the day after she was advised that her position was being eliminated, to rectify the situation. Under these circumstances, we conclude that the Board's finding that Hauser quit without good cause connected with the work is supported by substantial evidence.

Affirmed.

BIRD and BAKER, JJ., agree.