

1 injury to his back arising out of and occurring in the course of
2 his employment with Mike's Trucking.

3 Defendants asserted that applicant's claim was barred by
4 Labor Code section 3600(a)(10) (hereinafter "section
5 3600(a)(10)"), which provides:

6 "(10) Except for psychiatric injuries
7 governed by subdivision (e) of Section 3208.3,
8 where the claim for compensation is filed
9 after notice of termination or layoff,
10 including voluntary layoff, and the claim is
11 for an injury occurring prior to the time of
12 notice of termination or layoff, no
13 compensation shall be paid unless the employee
14 demonstrates by a preponderance of the
15 evidence that one or more of the following
16 conditions apply:

17 "(A) The employer has notice of the injury,
18 as provided under Chapter 2 (commencing with
19 Section 5400), prior to the notice of
20 termination or layoff.

21 "(B) The employee's medical records,
22 existing prior to the notice of termination or
23 layoff, contain evidence of the injury.

24 "(C) The date of injury, as specified in
25 Section 5411, is subsequent to the date of the
26 notice of termination or layoff, but prior to
27 the effective date of the termination or
layoff.

"(D) The date of injury, as specified in
Section 5412, is subsequent to the date of the
notice of termination or layoff. "For
purposes of this paragraph, an employee
provided notice pursuant to Sections 44948.5,
44949, 44951, 44955, 44955.6, 72411, 87740,
and 87743 of the Education Code shall be
considered to have been provided a notice of
termination or layoff only upon a district's
final decision not to reemploy that person.

"A notice of termination or layoff that is
not followed within 60 days by that
termination or layoff shall not be subject to
the provisions of this paragraph, and this
paragraph shall not apply until receipt of a

1 later notice of termination or layoff. The
2 issuance of frequent notices of termination or
3 layoff to an employee shall be considered a
bad faith personnel action and shall make this
paragraph inapplicable to the employee."

4 The WCJ held that applicant's claim was not barred by section
5 3600(a)(10). He concluded that that statute applies to instances
6 when the employer gives notice of termination or layoff, but not
7 to those instances when the applicant simply quits. We agree.
8 (See also Helmsman Management Services v. WCAB (Kim) (1998) 63
9 Cal.Comp.Cases 858, writ denied).

10 Defendants contend that the legislative intent behind section
11 3600(a)(10) is to prevent disgruntled employees from filing false
12 claims against employers after the employment ends, including
13 those situations in which employees "become so fed up with their
14 employment situation that they simply quit." (Petition, p.3.)
15 Defendants further argue that such a legislative intent is evident
16 in the plain language of the statute.

17 Our reading of section 3600(a)(10) differs from that of
18 defendants. The statutory phrase "voluntary layoff" does not have
19 a plain meaning synonymous with the common terms "resignation" and
20 "quit." If the Legislature had intended such a meaning, it could
21 have clearly expressed it by using one of these common terms. In
22 our view, in using the less common term "voluntary layoff," the
23 Legislature intended those situations in which the employer
24 provides notice that one or more employees will be laid off, but
25 allows some mechanism for employees to volunteer to be the
26 specific individual(s) to be laid off.

1 Moreover, in DuBois v. WCAB (1993) 5 Cal.4th 382, 58
2 Cal.Comp.Cases 286, 289, the Supreme Court explained that in
3 construing a statute:

4
5 "[W]e must consider the . . . quoted sentence in
6 the context of the entire statute . . . and the
7 statutory scheme of which it is a part. We are
8 required to give effect to statutes according to
9 the usual, ordinary import of the language
10 employed in framing them. [Citations.] . . .
11 If possible, significance should be given to
12 every word, phrase, sentence and part or an act
13 in pursuance of the legislative purpose.
14 [Citation.] When used in a statute
[words] must be construed in context, keeping in
15 mind the nature and obvious purpose of the
16 statute where they appear. [Citations.]
17 Moreover, the various parts of a statutory
18 enactment must be harmonized by considering the
19 particular clause or section in the context of
20 the statutory framework as a whole.
21 [Citations.]" (Internal quotation marks and
22 citations omitted.)

23 In applying these principles of construction, we note that
24 section 3600(a)(10) repeatedly employs the phrase "notice of
25 termination or layoff" in contexts limited to notice from the
26 employer to the employee. One such context pertains to notice
27 pursuant to provisions of the Education Code. Another is the
provision that: "The issuance of frequent notices of termination
or layoff to an employee shall be considered a bad faith personnel
action and shall make this paragraph inapplicable to the
employee." In no instance does the statute mention such a notice
from the employee to the employer.

 We conclude from the language and structure of the statute
that the legislative intent was to prevent employees and former
employees from filing false claims in retaliation for being

1 terminated or laid off. By its terms, the statute would cover
2 those employees personally targeted for termination or layoff, as
3 well as those volunteering to be laid off in an employer-initiated
4 reduction in force directed at a class or category of employees.

5 Our conclusion that "voluntary layoff" is not synonymous with
6 "quit" or "resignation" is consistent with similar terminology in
7 Unemployment Insurance Code section 1256, which provides in part:

8 "An individual is disqualified for
9 unemployment compensation benefits if the
10 director finds that he or she left his or her
11 most recent work voluntarily without good
12 cause or that he or she has been discharged
13 for misconduct connected with his or her most
14 recent work.

15 . . .

16 "An individual shall be deemed to have
17 left his or her most recent work with good
18 cause if he or she elects to be laid off in
19 place of an employee with less seniority
20 pursuant to a collective bargaining agreement
21 that provides that an employee with more
22 seniority may elect to be laid off in place of
23 an employee with less seniority when the
24 employer has decided to layoff employees."
25 (Emphasis supplied.)

26 Thus, an employee who simply quits without good cause is not
27 eligible for unemployment compensation, but an employee who is
laid off is eligible, and under the prescribed circumstances
eligibility extends to an employee who "elects" to be laid off.
In Stanford v. Unemployment Insurance Appeals Board (1983) 147
Cal.App.3d 98, an employee elected to be laid of in place of a
less senior employee under the terms of a collective bargaining
agreement, but was denied benefits because the employer reported
the reason for unemployment as a "voluntary layoff." Id., 147
Cal.App.3d at 101. The court stated:

1 "We hold the layoff, although in a sense
2 voluntary, was with good cause within the
3 meaning of section 1256.

4 . . .

5 "In the instant case, we hold the
6 instigating cause for Stanford's termination
7 of employment was the employer's announced
8 mandatory layoff. Stanford's rights under the
9 collective bargaining agreement to elect a
10 substitutionary layoff did not arise until
11 after the employer had already determined that
12 a mandatory layoff would be made. Then, and
13 only then, did he exercise the limited right,
14 within the bounds of the collective bargaining
15 agreement, to elect a substitutionary layoff."
16 (Id., 147 Cal.App.3d at 102.)

17 While there is nothing in Labor Code section 3600(a)(10)
18 limiting the phrase "voluntary layoff" to a collective bargaining
19 context, neither is there any language suggesting a legislative
20 intent to include within that phrase every voluntary resignation.
21 Therefore, we conclude that in enacting that statute, the
22 Legislature intended to make a distinction between layoffs and
23 resignations similar to that expressly set forth in the
24 Unemployment Insurance Code.

25 We will therefore affirm the WCJ's decision.

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For the foregoing reasons,

IT IS ORDERED that the Findings and Order filed March 9, 1998, be, and it is hereby, AFFIRMED and ADOPTED.

WORKERS' COMPENSATION APPEALS BOARD

/s/ Richard P. Gannon

I CONCUR:

/s/ Arlene N. Heath

/s/ Douglas M. Moore, Jr.

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 28, 1998

SERVICE BY MAIL ON SAID DATE TO ALL PARTIES AS SHOWN ON THE OFFICIAL ADDRESS RECORD EXCEPT LIEN CLAIMANTS.

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