

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JANUARY TERM, A.D., 2004

JAMES L. KELLY, \*\*

Appellant, \*\*

vs. \*\* CASE NO. 3D03-2040

DADE COUNTY SCHOOL BOARD, \*\* LOWER  
and FLORIDA UNEMPLOYMENT TRIBUNAL NO. 03-6004  
APPEALS COMMISSION, \*\*

Appellees, \*\*

Opinion filed May 19, 2004.

An Appeal from the Unemployment Appeals Commission.

La Verne M. Kelly, for appellant.

John D. Maher (Tallahassee), for appellee, Unemployment  
Appeals Commission.

Before GERSTEN, GREEN, and SHEPHERD, JJ.

PER CURIAM.

James Kelly ("appellant") appeals from an order of the Unemployment Appeals Commission, affirming the denial of unemployment compensation benefits. We disagree with the conclusion that the appellant left his employment without good cause and reverse.

"Good cause for leaving employment turns on whether the circumstances in a given case would have impelled the average, able-minded, qualified worker to give up his employment." Eulo v. Florida Unemployment Appeal Comm'n, 724 So. 2d 636 (Fla. 2d DCA 1999). Appellant alleges that he is entitled to benefits as he left his employment with good cause attributable to his employer. The school board did not present any witnesses with personal knowledge of the facts in appellant's case or rebut the appellant's claims that he was constructively discharged from his employment.

As there is not substantial, competent evidence to support the referee's finding that appellant voluntarily left his employment without good cause attributable to his employer, we reverse the order disqualifying him from receiving unemployment benefits.

Reversed.