

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Roy Dunlap, :
 :
 Petitioner :
 :
 v. :
 :
 Unemployment Compensation :
 Board of Review, : No. 320 C.D. 2008
 Respondent : Submitted: July 18, 2008

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE JOHNNY J. BUTLER, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McGINLEY

FILED: August 12, 2008

Roy Dunlap (Claimant) petitions for review of the order of the Unemployment Compensation Board of Review (Board) which affirmed the referee's denial of benefits under Section 402(b) of the Unemployment Compensation Law (Law).¹

The facts, as initially found by the referee and adopted by the Board, are as follows:

1. The claimant was last employed as a lineman with Tel-Power, Inc. at a rate of \$18.33 per hour from July 24, 2006 through September 27, 2007, his last day of work.
2. Prior to September 28, 2007, the claimant was dissatisfied with various issues involved with his

¹ Act of December 5, 1936, Second Ex. Sess. P.L. (1937) 2897, *as amended*, 43 P.S. §802(b).

employment that span the period of approximately one year.

3. On September 28, 2007, the claimant's supervisor contacted him about the claimant's and his crew's work performance the previous week.

4. On that same date, the supervisor indicated that the claimant's work production was below the level of other crew leaders and crews employed by Tel-Power, Inc.

5. As a result of the claimant's general dissatisfaction with his work coupled with the criticism received from his supervisor, the claimant decided to voluntarily terminate his employment.

6. On September 28, 2007, the claimant voluntarily terminated his employment because he was dissatisfied with his work situation.

Referee's Decision, December 13, 2007, Findings of Fact Nos. 1-6 at 1.

The Board affirmed and noted that "the resentment of a reprimand, without more, does not provide the claimant with good cause to quit his employment." Board Opinion, January 30, 2008, at 1.

Initially, the Board asserts that Claimant's brief should be quashed and his petition for review dismissed because it does not conform to the requirements of the Pennsylvania Rules of Appellate Procedure. Specifically, Pa.R.A.P. 2116(a) provides in pertinent part:

The statement of the questions involved must state the question or questions in the briefest and most general terms, without names, dates, amounts or particulars of any kind. It should not ordinarily exceed 15 lines, must never exceed one page, and must always be on a separate page, without any other matter appearing thereon. This

rule is to be considered in the highest degree mandatory, admitting of no exception: ordinarily no point will be considered which is not set forth in the statement of questions involved or suggested thereby.

Claimant's Statement of Questions Involved contains no questions for this Court to consider. It is more in the form of a table of contents listing the referee's decision and the elements of the decision (finding of facts, issue, reasoning, and order), the Board's opinion, the transcript of testimony and a statement of physician services from Milton S. Hershey Medical Center. The brief clearly does not conform to the Pennsylvania Rules of Appellate Procedure. This Court agrees that Claimant failed to comply with the rules. Since he failed to properly state any question for our consideration, we shall consider none. Shapowal v. Unemployment Compensation Board of Review, 553 A.2d 487 (Pa. Cmwlth. 1989).

Accordingly, this Court affirms.²

² Assuming arguendo that Claimant did preserve an issue for this Court's review, Claimant must prove that he had a necessitous and compelling reason for resigning his employment. The issue of whether a termination of employment is voluntary is a question of law subject to this Court's review. The failure of an employee to take all reasonable steps to preserve employment results in a voluntary termination. Westwood v. Unemployment Compensation Board of Review, 532 A.2d 1281 (Pa. Cmwlth. 1981). An employee voluntarily terminating employment has the burden of proving that such termination was necessitous and compelling. The question of whether a claimant has a necessitous and compelling reason to terminate employment is a question of law reviewable by this Court. Willet v. Unemployment Compensation Board of Review, 429 A.2d 1282 (Pa. Cmwlth. 1981). Good cause for voluntarily leaving one's employment results from circumstances which produce pressure to terminate employment that is both real and substantial and which would compel a reasonable person under the circumstances to act in the same manner. Philadelphia Parking Authority v. Unemployment Compensation Board of Review, 654 A.2d 280 (Pa. Cmwlth. 1995).

(Footnote continued on next page...)

(continued...)

Here, Claimant terminated his employment after receiving criticism from his supervisor concerning his crew's work performance. Claimant did not attempt to voice his displeasure with the criticism or its validity with anyone higher up the chain of command. If a claimant fails to make any attempt to resolve his concerns regarding a supervisor's treatment with his employer prior to a voluntary quit, the claimant is not entitled to benefits. See Craighead-Jenkins v. Unemployment Compensation Board of Review, 796 A.2d 1031 (Pa. Cmwlth. 2002). Mere disagreement with an employer's management style or dissatisfaction and resentment of a reprimand does not constitute a necessitous and compelling reason to quit employment. Gioia v. Unemployment Compensation Board of Review, 661 A.2d 34 (Pa. Cmwlth. 1995). This Court would agree with the Board that Claimant failed to establish a necessitous and compelling reason for terminating his employment.

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ORDER

AND NOW, this 12th day of August, 2008, the order of the Unemployment Compensation Board of Review in the above-captioned matter is affirmed.

BERNARD L. MCGINLEY, Judge