

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Lorraine N. Tyson, :
Petitioner :
 :
v. :
 :
Unemployment Compensation :
Board of Review, : No. 503 C.D. 2008
Respondent : Submitted: July 25, 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 14, 2008

Lorraine N. Tyson (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 by the Jewish Educational and Vocational Services (JEVS) as a home health aide average 25½ hours per week at \$10.00 per hour during the week, and \$11.00 per hour on the weekend. She was employed for 4 years, and her last day of work was July 5, 2007.

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

2. JEVS is a fiscal agent which matches clients with home health aides.

3. Employees are paid by JEVS with federal grants.

....

5. The claimant alleges that she was told that there was a contract on her life.

6. The claimant was unable to supply the name of the organization or the person who advised her that her life was in jeopardy.

....

8. Effective July 5, 2007, the claimant voluntarily left employment.

Referee's Decision, November 21, 2007, Findings of Fact Nos. 1-3, 5-6, and 8 at 1.

The Board affirmed and agreed with the referee that "the claimant failed to credibly establish a necessitous and compelling reason to quit her employment." Board Opinion, February 11, 2008, at 1.

Claimant contends that a contracted hit constituted a necessitous and compelling reason for leaving employment,²

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.

² This Court's review in an unemployment compensation case is limited to a determination of whether constitutional rights were violated, errors of law were committed, or essential findings of fact are not supported by substantial evidence. Lee Hospital v. Unemployment Compensation Board of Review, 637 A.2d 695 (Pa. Cmwlth. 1994).

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).

Before the referee, Claimant testified concerning why she left her employment:

I had a hit – I had a contract on my life in that area by this organization. I had to leave. . . . There's nothing JEVS could have done for me or sent me anywhere around in that area because that – they were everywhere there. I had to leave. I had a contract on my life.

Notes of Testimony, November 20, 2007, (N.T.) at 8.

Claimant testified that an organization known as “MF” placed the contract on her life. N.T. at 9. Claimant left Philadelphia and went to the psychiatric ward of a Veterans Administration Hospital in Salem, Virginia. N.T. at 9. She explained that if she went to the Veterans Administration Hospital in Philadelphia where she lived “the way the organization is connected, they would

have killed me in the hospital. They tried to kill me in the VA down in Salem, Virginia.” N.T. at 9-10.

Claimant presented no other testimony other than her own about the alleged contract for murder. The Board did not find her credible. In unemployment compensation proceedings, the Board is the ultimate fact-finding body empowered to resolve conflicts in evidence, to determine the credibility of witnesses, and to determine the weight to be accorded evidence. Unemployment Compensation Board of Review v. Wright, 347 A.2d 328 (Pa. Cmwlth. 1975). This Court will not reweigh the evidence. Because she did not submit any credible evidence concerning her reason for leaving employment, Claimant did not establish that she had a necessitous and compelling reason for leaving employment.

Accordingly, this Court affirms.³

BERNARD L. McGINLEY, Judge

³ Claimant also contends that she was in real danger of losing her life, and that Jewish Educational and Vocational Services (JEVS) was not her employer. Because this Court has already determined that Claimant failed to establish a necessitous and compelling reason for leaving her employment, this Court need not address these issues.

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| Unemployment Compensation | : | |
| Board of Review, | : | No. 503 C.D. 2008 |
| | : | |
| Respondent | : | |

ORDER

AND NOW, this 14th day of August, 2008, the order of the Unemployment Compensation Board of Review in the above-captioned matter is affirmed.

BERNARD L. MCGINLEY, Judge