

*Note: In the case title, an asterisk (\*) indicates an appellant and a double asterisk (\*\*) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2018-349

JULY TERM, 2019

Courtney Blanc* v. Department of Labor	}	APPEALED FROM:
(North Country Hospital & Health Center, Inc.)	}	
	}	Employment Security Board
	}	
	}	DOCKET NO. 06-18-081-10

In the above-entitled cause, the Clerk will enter:

Claimant appeals a decision by the Employment Security Board denying her unemployment benefits based on its conclusion that she left her employment voluntarily without good cause attributable to her employer. We affirm.

Claimant submitted a request for unemployment benefits, and the claims adjudicator found that claimant left her employer voluntarily without good cause. Claimant appealed to an administrative judge, who found the following after a hearing. Claimant was employed for three and a half years as an operating room technician at North Country Hospital. During her time there, claimant had three written evaluations, and each indicated claimant was “fully successful.” Claimant did not include any comments on these evaluations. Claimant did not have a harmonious working relationship with her supervisor. Claimant provided examples of her supervisor’s behavior that prompted her resignation. In February 2018, the supervisor told claimant that if she missed time to be with her terminally ill grandmother her job would be in jeopardy. In fact, the supervisor did not have authority to discharge employees. Claimant did take time off for her grandmother and was paid for that time. The final incident for claimant occurred when claimant returned to work after lunch, went to the operating room, and found another individual “scrubbing in” for the upcoming procedure for which claimant thought she herself was supposed to scrub in. Claimant went to her supervisor and another individual and they indicated they did not know why the other individual was designated to do the work. They reported the other individual had commented that claimant’s behavior in the operating room was inappropriate. Claimant’s supervisor did not take any corrective action. After this incident, claimant submitted her resignation in early May 2018. The acting CEO encouraged her to remain while he did an investigation, but claimant refused. Claimant’s last day at work was June 1, 2018.

The administrative judge concluded that claimant failed to demonstrate that she had good cause for leaving and sustained the decision of the adjudicator. Claimant appealed to the Employment Security Board. The Board affirmed the administrative judge’s decision. The Board explained that although claimant and her supervisor did not have a harmonious relationship, claimant did not demonstrate any incident that would justify leaving. The Board also noted that employer was willing to address claimant’s grievances and claimant did not give employer a chance to correct the situation.

On appeal, claimant argues that she was justified in resigning because her supervisor bullied and harassed her, criticizing and embarrassing her in front of other employees.\*

An employee is disqualified from unemployment benefits if the employee voluntarily leaves without good cause attributable to the employer. 21 V.S.A. § 1344(a)(2)(A). Where the sole issue is whether there is good cause attributable to the employer, we give great weight to the decision of the Board. Cook v. Dep't of Emp't & Training, 143 Vt. 497, 501 (1983). The burden of proving good cause attributable to the employer is on the employee. Skudlarek v. Dep't of Emp't & Training, 160 Vt. 277, 280 (1993). "In determining good cause, we must examine each case according to a standard of reasonableness." Id.

To determine whether there is good cause, "there is no bright-line threshold in our law defining an intolerable working environment such that good cause to quit exists as a matter of law." Bombard v. Dep't of Labor, 2010 VT 100, ¶ 7, 189 Vt. 528 (mem.). Here, claimant has not demonstrated that she had good cause to quit. Although claimant asserted that her supervisor created intolerable conditions, the examples provided by claimant do not meet her burden of showing good cause. Claimant's examples demonstrate some poor communication and insensitivity on the part of claimant's supervisor, but claimant has not shown that a reasonable person would have been compelled to quit under those circumstances.

Moreover, claimant did not provide employer with a reasonable opportunity to respond to the situation and propose a solution. Prior to leaving employment, an employee has a duty to attempt to resolve any workplace grievance. Rushlow v. Dep't of Emp't & Training, 144 Vt. 328, 331 (1984). Here, claimant did speak to her supervisor's supervisor and was instructed to address her concerns directly with her supervisor. She indicated that she did not because she knew she "would get rebutted against." Before she left, the CEO offered to investigate claimant's concerns if she stayed but claimant refused. Under these circumstances, claimant has failed to show that she provided her employer with a reasonable opportunity to respond. We conclude that the Board did not err in concluding that claimant did not have good cause attributable to her employer.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Beth Robinson, Associate Justice

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Harold E. Eaton, Jr., Associate Justice

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\* On appeal, claimant has provided additional examples of her supervisor's behavior. Because these examples were not introduced in the record below, we do not consider them on appeal. V.R.A.P. 10(a) (explaining that record on appeal is limited to documents, data, and exhibits filed below).