

STATE OF MICHIGAN
EMPLOYMENT SECURITY BOARD OF REVIEW

In the Matter of the Claim of

GARTH H. HOLMQUIST,

Appeal Docket No. B76-9343-54085

Claimant

Social Security No. [REDACTED]

SWISS COLONY STORE,

Employer

DECISION OF BOARD OF REVIEW

In this case, the claimant obtained stop-gap employment in a Madison, Wisconsin food shop while attempting to obtain employment commensurate with his educational and career objectives. The job provided about twenty hours of work per week, paid only \$2.20 per hour, and was to end around January 1, 1976.

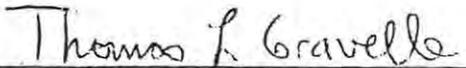
On December 19, 1975, the claimant quit the job to return to Michigan. He had failed to obtain the kind of employment he desired; he was soon to be terminated; and, as found by the referee, "he could no longer afford to remain." The claimant testified: "I had been unsuccessful in finding work in Wisconsin and decided that the only way I was going to be able to make it without going bankrupt was to avoid some expenses like the \$145.00 a month I was paying rent" (Referee hearing transcript, p 10). Further, his wife was unemployed (Id, pp 10-11).

The referee held the claimant disqualified under Section 29 (1)(a) of the Michigan Employment Security Act for voluntarily leaving this employment. We disagree.

Where an employee is unable to earn a living wage at his job, his leaving the job is involuntary and not disqualifying. Brainard v Unemployment Compensation Commission of Delaware, 76 A2d126, cited approvingly by Justice Edwards in Lyons v Employment Security Commission, 363 Mich 201 (1961). Moreover, in Larson v Campbell, Wyant, 2 Mich App 540, 546 (1966), the Michigan Court of Appeals explained that the Act "was intended to protect . . . [claimants] from the subtly coercive effects of economic pressure" There, an employee who agreed to quit his employment in order to receive compensation for his work related injury was deemed to have quit involuntarily. As in the present case, "economic pressures were the motivating factor in obtaining the resignation" (Id at 544).

What follows is that the claimant's leaving his stop-gap employment in Madison, Wisconsin was involuntary because motivated by economic necessity.

Therefore, the referee's decision is reversed, and the claimant is held not disqualified by reason of leaving his Wisconsin employment.


Thomas L. Gravelle, Member


Frank Salomone, Member

MORRIS W. B. COHL (MEMBER) DISSENTING:

I do not agree with the conclusion reached by the majority of the panel in this matter. It is my opinion that the decision of the referee is correct and in accordance with the facts and law, and I would therefore affirm the referee's decision.


Morris W. B. Cohl, Member

Dated and mailed at
Detroit, Michigan on

July 27, 1978