

STATE OF MICHIGAN
COURT OF APPEALS

JUDY LEESEBERG,

FEB 19 1986

Plaintiff-Appellant,

v

No. 84617

SMITH-JAMIESON NURSING, INC., and
MICHIGAN EMPLOYMENT SECURITY
COMMISSION,

Defendants-Appellees.

Before: Cynar, P.J, M.H. Wahls and R.S. Gribbs, JJ. +

PER CURIAM

This is an appeal by right from an order of the circuit court affirming a decision of the Michigan Employment Security Commission Board of Review which upheld the finding of the referee that plaintiff was disqualified from receiving unemployment compensation benefits pursuant to MCL 421.29(1)(a); MSA 17.531(1)(a).

Plaintiff was employed as a nurse's aid at defendant nursing home. On August 12, 1983, plaintiff telephoned her employer and informed it that she was not able to report to work because her husband had sustained serious injuries in a bulldozer accident and it was necessary that she remain home to care for him. Four days later, plaintiff again called her employer to request an indefinite leave of absence to care for her husband. The employer denied the request. Plaintiff remained off work until September 19, 1983, when she called defendant nursing home and advised them that she wished to return to work. At that time, plaintiff was informed that her position had been filled and her employment had been terminated.

Plaintiff contends that she was not advised that her employment would be terminated if she did not report to work. On the other hand, the employer asserts that plaintiff was

told that her position could not be held open and that a replacement would be hired. The referee denied plaintiff's claim for unemployment compensation on the basis that plaintiff voluntarily quit her employment without good cause attributable to the employer. He found, that since plaintiff was informed that her continued absence would result in termination, her decision to remain home constituted a voluntary termination. The question raised by plaintiff is whether on the facts of this case, plaintiff voluntarily left her employment.

This Court may only reverse a determination of the Michigan Employment Security Commission Board of Review if it finds that the order or decision is not supported by competent, material and substantial evidence or is contrary to law. MCL 421.38; MSA 17.540; Lucas v Employment Security Commission, 132 Mich App 232; 347 NW2d 26 (1984), ly den 419 Mich 903 (1984). The question of whether an employee left work "voluntarily" is a matter of law. Laya v Cebar Construction Co, 101 Mich App 26; 300 NW2d 439 (1980).

MCL 421.29(1)(a); MSA 17.531(1)(a) provides that an employee is disqualified from receiving unemployment benefits if the individual "left work voluntarily without good cause attributable to the employer or employing unit". The issue presented by this case is whether an employee may be deemed to have "left work voluntarily" when she deliberately fails to report to work for compelling personal reasons with foreknowledge that her employment may be terminated if she fails to report. We conclude that the language of the statute requires us to affirm the Commission's decision.

The Legislature's use of the term "voluntary" is clear and requires application. Although we sympathize with plaintiff's plight and recognize the harshness of our result, we are not at liberty to read into the statute provisions which the Legislature did not elect to incorporate nor may we broaden the scope of the statute by an unwarranted

interpretation of the language used. Ford Motor Co v Unemployment Compensation Commission, 316 Mich 468, 473; 25 NW2d 586 (1947). "Voluntary" connotes a choice between reasonable alternatives. Lyons v Employment Security Commission, 363 Mich 201, 216; 108 NW2d 849 (1961), Edwards, J., dissenting.

Here, plaintiff was faced with returning to work and retaining employment or staying home to care for her husband and risk possible discharge. Plaintiff chose to face termination because she wanted to care for her injured husband. While plaintiff's choice was prompted by compelling personal reasons, a good personal reason does not equate with good cause under the statute. City of Saginaw v Lindquist, 139 Mich App 515, 523; 362 NW2d 771 (1984). Compare, Laya v Cebar Const Co, 101 Mich App 26; 300 NW2d 439 (1980). In our opinion, plaintiff left work voluntarily without good cause attributable to the employer.

Plaintiff also argues that defendant nursing home failed to establish that plaintiff was guilty of misconduct. However, at no time did the employer or the Michigan Employment Security Commission suggest that plaintiff's discharge was for misconduct. Plaintiff's claim is without merit.

Affirmed.

/s/ Walter P. Cynar
/s/ Myron H. Wahls
/s/ Roman S. Gibbs