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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

JO ANN L. SKALECKI,

Claimant-Appellant,

-vs-

Case No. 85-546 AE

RICHARD D. ANSLOW, M.D., P.C.,

Employer-Appellee,

and

MICHIGAN EMPLOYMENT SECURITY
COMMISSION,

Appellee.

OPINION AND ORDER

This is an appeal pursuant to MCL 421.38 from the decision of the Michigan Employment Security Commission Board of Review affirming a referee finding that claimant, Jo Ann L. Skalecki, is ineligible for unemployment benefits because she left work voluntarily without good cause attributable to the employer.

This court reviews the agency determination pursuant to the standards set forth in MCL 421.38 and Const 1963, Art. VI Sec. 28. The proper standard of judicial review to be employed is whether the decision is supported by competent, material and substantial evidence on the whole record. King v Calumet & Hecla Corp., 43 Mich App 319; 204 NW2d 286 (1972).

Claimant worked for Dr. Anslow on a part-time basis as a medical assistant. In July of 1983, other employees performing the functions of transcriber and billing officer left the employment of Dr. Anslow. Dr. Anslow desired to restructure his office and offered claimant the opportunity of working full-time as the transcription and insurance processing person. There is no dispute in the

record but that claimant is unable to type and has had no training to perform these functions. The testimony is in the dispute as to whether claimant was offered training at the employer's expense. She declined to accept the offered full-time employment and was terminated two weeks after a replacement was hired.

Under the circumstances of this case, the court holds that the decision of the Board of Review is contrary to law and not supported by competent, material and substantial evidence on the whole record. The court is of the opinion that claimant cannot be charged with voluntarily terminating her employment without good cause attributable to the employer where she is required to accept new full-time employment for which she is not trained or experienced. Claimant did not have to accept this position even if free training was offered.

Consequently, the decision of the MESC Board of Review should be and the same hereby is REVERSED and this matter is remanded for an award of appropriate unemployment benefits.

IT IS SO ORDERED.

RECEIVED

KENNETH N. SANBORN
Circuit Judge

DATED: September 26, 1985

cc: Cresence C. Schwartz
Dennis J. Grifka
J. Martin Brennan, Jr.

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