

STATE OF MICHIGAN
EMPLOYMENT SECURITY BOARD OF REVIEW

In the Matter of the Claim of

BRUCE BRADFORD,

Appeal Docket No. B76-10199-RO-53944

Claimant

Social Security No. [REDACTED]

SHREVE STEEL ERECTION, INC.,

Employer

DECISION OF BOARD OF REVIEW

This matter is before the Board of Review on the appeal of the claimant from a Referee's order dated January 6, 1977 denying the claimant's request for rehearing under Section 33 of the Act.

On appeal from a Referee's order denying a request for rehearing, it has been consistently held that both the procedural issue and the merits are before the Board for review.

The Referee issued a decision on November 23, 1976 holding that the claimant should be disqualified for benefits under Subsection 29 (1)(a) of the Act for week ending March 27, 1976.

In respect to the Referee's order dated January 6, 1977, the Board is of the opinion that the Referee did not abuse his discretion in denying the request for rehearing and the said order is affirmed.

As to the decision of the Referee issued on November 23, 1976, the Board has reviewed the record in this matter and we find that the facts are not in dispute. The claimant worked for Shreve Steel Erection, Inc. from January, 1976 to March 26, 1976 when he voluntarily terminated his employment with that company in order to accept work with Michigan Boiler. He commenced employment with Michigan Boiler on March 29, 1976 and was laid off by that employer after completing work on March 30, 1976.

On April 7, 1976, the claimant filed a claim for benefits showing Michigan Boiler as the separating employer and was paid benefits for one week. The Commission issued on May 6, 1976 a determination for successive employment with Shreve Steel Erection, Inc. and found that the claimant should be disqualified for benefits under Subsection 29 (1)(a) of the Act. The determination was affirmed by a redetermination issued on June 1, 1976 and the matter was then appealed to the Referee.

In disposing of this case, the Referee failed to consider that under Subsection 29 (5) of the Act that if an individual leaves his work to accept permanent

full-time work with another employer and performs services for that employer, then the disqualification provisions of Subsection 29 (1) shall not apply. Further, that the wages earned with the employer that he last left shall be transferred to the employer with whom the individual accepted work for the purpose of computing and charging benefits.

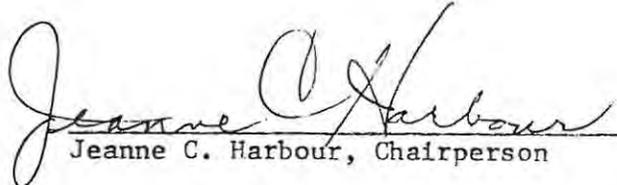
When the claimant left Shreve Steel Erection, Inc., he did so for the purpose of accepting what he thought would be permanent full-time work with Michigan Boiler but for reasons unknown to the claimant he was terminated from this employment after working only two days. The mere fact that the claimant worked only two days does not make inapplicable Subsection 29 (5) of the Act.

The Board finds that the claimant left his employment with Shreve Steel Erection, Inc. to accept permanent full-time work with Michigan Boiler and the disqualification provision under Subsection 29 (1)(a) of the Act is not applicable by virtue of the provisions of Subsection 29 (5) of the Act.

The decision of the Referee is hereby reversed.

It is held that the claimant left his employment with Shreve Steel Erection, Inc. to accept permanent full-time work with Michigan Boiler and is not disqualified for benefits under Subsection 29 (1)(a) of the Act.

It is further held that the provisions of Subsection 29 (5) of the Act are applicable and the matter of the claimant's entitlement to further benefits is left for Commission determination.



Jeanne C. Harbour, Chairperson



Morris W. B. Cohl, Member



Frank Salomone, Member

Dated and mailed at
Detroit, Michigan on

March 23, 1978