

2012 IL App (1st) 112831-U

FOURTH DIVISION  
August 23, 2012

No. 1-11-2831

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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JOHN H. HOLDMAN,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 11 L 50699
	)	
ILLINOIS DEPARTMENT OF EMPLOYMENT	)	
SECURITY; DIRECTOR OF ILLINOIS DEPARTMENT	)	
OF EMPLOYMENT SECURITY; BOARD OF REVIEW;	)	
and ENTERPRISE LEASING CO. OF CHICAGO,	)	Honorable
	)	Alexander P. White,
Defendants-Appellees.	)	Judge Presiding.

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JUSTICE FITZGERALD SMITH delivered the judgment of the court.  
Presiding Justice Lavin and Justice Sterba concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Where plaintiff asserted that medical conditions prevented him from working but failed to submit statutorily required proof from a doctor specifying such inability, Department's denial of unemployment benefits was affirmed.
- ¶ 2 Plaintiff, John H. Holdman, brings this *pro se* appeal from an order of the circuit court of Cook County affirming a determination by the Board of Review of the Illinois Department of Employment Security (Department) that plaintiff was ineligible to receive unemployment

benefits because he left work voluntarily, without good cause attributable to his employer. On appeal, plaintiff contends that he left work because of a number of medical conditions and therefore did not leave work voluntarily.

¶ 3 Plaintiff was employed by Enterprise Leasing Company of Chicago (Enterprise) as a driver from January 2002 until November 2010. In August 2010, plaintiff was given a 90-day unpaid leave of absence by Enterprise for medical reasons. At the conclusion of this 90-day period, plaintiff informed Enterprise that he would not be returning to work because of vision problems. Plaintiff then applied for unemployment benefits. Enterprise did not challenge this claim, but a Department claims adjudicator denied it. The adjudicator found that plaintiff had committed misconduct connected with his work when he failed to submit to Enterprise paperwork supporting his request for medical leave. Plaintiff filed an administrative appeal from this determination and three telephonic evidentiary hearings were conducted by a Department referee.

¶ 4 Only two witnesses testified at the hearings before the referee. Plaintiff testified that he went on medical leave because he suffered from gout, diabetes and vision problems as well as pain in one knee which required him to use a cane. He testified that he was unable to get his doctor to sign a document saying that he could not continue working because his doctor was on a "medical fellowship someplace" and the other doctors would not sign a statement that he could not work. However, plaintiff also testified that he had been able to work despite his medical conditions. He stated that he stopped working because he was beginning to take more time off because of these medical conditions and he did not wish to "get a bad rap" because of those absences.

¶ 5 An Enterprise human resources specialist, Valerie Kobel, testified that plaintiff had told her that as it began to get darker earlier it was more difficult for him to see. Because of that and

his other medical conditions, he believed that it was "best for him to leave." Plaintiff was placed on 90 days' medical leave when he did not relay to Enterprise any medical notice concerning being unable to work. Plaintiff then testified that the reason he resigned from work was that he had worked at Enterprise without any accident or incident and he wanted to maintain that record. Under questioning from the referee, plaintiff testified that no doctor had told him that he was too ill to work.

¶ 6 The referee denied plaintiff's appeal on the ground that he had voluntarily left work when he failed to document his medical claims. Plaintiff appealed to the Department's Board of Review, which affirmed the referee's decision, incorporating that decision as part of its holding. On administrative review, the circuit court of Cook County affirmed the decision of the Board of Review.

¶ 7 Plaintiff contends that he is entitled to unemployment benefits because he did not leave work voluntarily when he left because of his medical conditions. On administrative review, we review the decision of the Board, not that of the circuit court. *Oleszczuk v. Department of Employment Security*, 336 Ill. App. 3d 46, 50 (2002). Under section 601(A) of the Illinois Unemployment Insurance Act (the Act), a former employee may not receive unemployment benefits if he left work voluntarily without good cause attributable to his employer. 820 ILCS 405/601(A) (West 2010). Our review of whether an employee left for good cause attributable to his employer involves a mixed question of law and fact for which we apply the "clearly erroneous" standard of review. *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 395 (2001). Under this standard, an agency's decision is clearly erroneous only where our review leaves us with a definite and firm conviction that an error has been made. *AFM Messenger*, 198 Ill. 2d at 395. An employee has the burden of proving his

eligibility for unemployment benefits. *Childress v. Department of Employment Security*, 405 Ill. App. 3d 939, 943 (2010).

¶ 8 Plaintiff claims that he was entitled to unemployment benefits because he was forced to leave work because of his medical conditions. There is a statutory right to unemployment benefits where an employee leaves work because of medical conditions, but only where that employee establishes that a doctor has determined that he is physically unable to work because of those conditions. 820 ILCS 405/601(B)(1) (West 2010). Although this provision has been construed as not requiring any particular language from a doctor, there still must be evidence from the doctor establishing that the employee is no longer able to work because of a medical condition. *Jenkins v. Department of Employment Security*, 346 Ill. App. 3d 408, 412-13 (2004). Here, plaintiff's testimony fails to even establish that his medical conditions prevented him from working. In his testimony he admitted that no doctor had ever told him that he could not work because of his medical conditions. He also testified that he chose to leave because he did not wish to sully his good work record with a history of medical leaves of absence. But even assuming that plaintiff believed that he could no longer work, he failed to introduce evidence of a doctor's statement or finding supporting such a conclusion. For these reasons we find that no error was made in the Board of Review's determination that plaintiff was not eligible for unemployment benefits based upon his medical conditions.

¶ 9 For the reasons set forth in this order, we affirm the judgment of the circuit court of Cook County.

¶ 10 Affirmed.