

No. 1-13-3269

**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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LESHAWN JORDEN,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	
	)	
ILLINOIS DEPARTMENT OF EMPLOYMENT	)	No. 13 L 50690
SECURITY; DIRECTOR OF THE ILLINOIS	)	
DEPARTMENT SECURITY; BOARD OF REVIEW;	)	
and AMERICAN HOME REMODELING CLUB, INC.	)	
c/o MAINA SHAPIRO,	)	Honorable
	)	Eileen O'Neill Burke,
Defendants-Appellees.	)	Judge Presiding.

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JUSTICE HOWSE delivered the judgment of the court.  
Presiding Justice Fitzgerald Smith and Justice Taylor concurred in the judgment.

**O R D E R**

¶ 1 *Held:* Department's denial of unemployment benefits affirmed where plaintiff voluntarily left work without good cause attributable to her employer.

¶ 2 Plaintiff, Leshawn Jordan, brings this *pro se* appeal from an order of the circuit court of Cook County affirming a determination by the Board of Review (Board) of the Illinois Department of Employment Security (Department) that she was ineligible to receive unemployment benefits because she left work voluntarily, without good cause attributable to her employer.

¶ 3 The record shows that plaintiff was employed as a telemarketer by American Home Remodeling Club Inc. (American Home) between January and September 2012, and that she applied for unemployment benefits on October 14, 2012, claiming she was discharged by American Home on September 12, 2012. American Home protested this claim on the grounds that plaintiff left her employment voluntarily, and without good cause. As evidence, American Home pointed out that a co-worker observed plaintiff collecting her personal belongings before leaving work on September 11, 2012, that plaintiff never returned to work as scheduled after that, nor did she contact her supervisor with a reasonable explanation for her absence. On September 28, 2012, American Home terminated plaintiff's employment, and refilled her position in October.

¶ 4 In her interview with a Department claims adjudicator, plaintiff alleged that her supervisor told her not to come back to work after she was sick for a few days, and she did not call because she had already told her supervisor of her illness. American Home contended that plaintiff was repeatedly late for work in August and September 2012, that she took all of her personal belongings with her when she left on September 11, 2012, and had neither called her supervisor to inform her that she was ill, nor spoken to anyone when she came in the office to collect her paycheck on September 17, 2012. Plaintiff next contacted her supervisor and the

owner of the company in October 2012, asking if she could return to work, but was refused because the position had been filled. The adjudicator found that plaintiff was ineligible for benefits because she was discharged for her misconduct in failing to call in her absences.

¶ 5 Plaintiff sought reconsideration, adding that there was a death in her family, that she suffered from allergies and had the flu, and when she tried to speak with the owner, he told her he was too busy. The claims adjudicator denied her request for reconsideration, and plaintiff then filed an administrative appeal.

¶ 6 A Department referee conducted a telephonic evidentiary hearing on February 7, 2013, where only plaintiff testified and American Home did not participate. Plaintiff testified that her last day of work was September 14, 2012,<sup>1</sup> and admitted that she was tardy and absent from work several times in July, August and September 2012. She claimed, however, that she was suffering from the flu and hay fever, that she had allergies for which she could not afford medical treatment, that her brother passed away, and that she had to move residences. Plaintiff claimed that her allergies impeded her ability to perform on the telephone because she was coughing, sneezing, and spending time in the restroom tending to her nose bleeds. Plaintiff also testified that her supervisor advised her to seek medical attention for her condition, but she failed to do so because she did not have a medical card and could not afford treatment. Instead, plaintiff went to the pharmacy and bought medication, but since she did not visit a doctor for her ailments, she could not provide her employer with a physician's note to excuse her tardiness and absenteeism. Plaintiff further testified that on her last day of work, her supervisor advised her

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<sup>1</sup> Although plaintiff testified in the telephonic hearing that September 14, 2012 was her last day of work, all other documentation, including plaintiff's brief indicates that her last day was September 11, 2012.

that her work hours were being reduced. She tried to speak to the owner of American Home about the reduction in hours, but he was too busy, and plaintiff did not work the reduced hours.

¶ 7 The referee affirmed the claims adjudicator's determination, finding that plaintiff was ineligible to receive benefits because she had voluntarily left work without good cause attributable to her employer. The referee found that plaintiff had abandoned her job, admitting that she did not follow her employer's directive to obtain medical attention in order to improve her attendance record, or work the reduced hours assigned to her, and failed to exhaust all reasonable alternatives to remain employed.

¶ 8 Plaintiff subsequently appealed to the Board, which affirmed the referee's decision, and incorporated that decision as part of its holding. The Board also cited *Henderson v. Department of Employment Security*, 230 Ill. App. 3d 536 (1st Dist. 1992) for the proposition that plaintiff had failed to exhaust all remedies available to her. The Board observed that plaintiff's efforts to continue in her employment were insufficient, because she failed to follow her supervisor's instructions by going to the doctor and getting treatment for her allergies and chose to stop coming to work. Accordingly, the Board held that plaintiff left her employment voluntarily and without good cause, and was ineligible for benefits. On administrative review, the circuit court affirmed the decision of the Board, and plaintiff appealed.

¶ 9 As a preliminary matter, we note that plaintiff has failed to comply with the rules for appellate briefs set forth in Supreme Court Rule 341 (eff. July 1, 2008). Most notably, plaintiff has failed to identify the issue presented for review, or articulate an organized and cohesive argument for this court's consideration (Ill. S. Ct. R. 341(h) (eff. July 1, 2008)). *Rock Island County v. Boalbey*, 242 Ill. App. 3d 461, 463 (3d Dist. 1993). Instead, plaintiff has filed a brief

consisting of a random recitation of "facts," without meaningful reference to the record, or legal arguments with accompanying citations to authority, and has also failed to state why she is entitled to unemployment benefits. Plaintiff's *pro se* status does not excuse her from complying with the basic rules of appellate procedure (*Boalbey*, 242 Ill. App. 3d at 462), and where, as here, plaintiff fails to comply with those rules, it is within our discretion to dismiss this appeal, however, we choose not do so in this case because we have the benefit of the record and the appellees' cogent brief before us (*Budzileni v. Department of Human Rights*, 392 Ill. App. 3d 422, 440–41 (2009)).

¶ 10 Our review of an administrative law proceeding is limited to the propriety of the Board's decision. *Childress v. Department of Employment Security*, 405 Ill. App. 3d 939, 942 (2010). The question of whether an employee left work without good cause attributable to her employer involves a mixed question of law and fact to which we apply the "clearly erroneous" standard of review. *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 395 (2001); *Childress*, 405 Ill. App. 3d at 942. Under this standard, the Board'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.

¶ 11 Under section 601(A) of the Illinois Unemployment Insurance Act, a former employee may not receive unemployment benefits if she left work voluntarily without good cause attributable to her employer. 820 ILCS 405/601(A) (2012); *Childress*, 405 Ill. App. 3d at 943. "Good cause results from circumstances that produce pressure to terminate employment that is both real and substantial and that would compel a reasonable person under the circumstances to act in the same manner," such as, "a unilateral change in the terms and conditions of employment

that renders the job unsuitable." *Childress*, 405 Ill. App. 3d at 943. A voluntary leaving is not attributable to the employer unless the reason for the employee leaving is within the employer's control, however, dissatisfaction with hours or wages does not generally constitute good cause for leaving for purposes of receiving unemployment compensation. *Lojek v. Department of Employment Security*, 2013 IL App (1st) 120679, ¶ 36.

¶ 12 In this case, plaintiff attributed her pattern of absenteeism and tardiness in July, August, and September of 2012 to personal and medical problems, and also claimed that her supervisor advised her on the last day of work that her hours were being reduced. As noted, an employee who leaves work for personal reasons not attributable to her employer cannot show eligibility for benefits (*Grant v. Board of Review of Illinois Department of Employment Security*, 200 Ill. App. 3d 732, 735 (1st Dist. 1990); *White v. Department of Employment Security*, 376 Ill. App. 3d 668, 672 (1st Dist. 2007)), and here, neither the personal reasons given by plaintiff for her leaving, nor the notification of reduced hours establish good cause for leaving for purposes of entitlement to unemployment compensation (*Lojek*, 2013 IL App (1st) 120679 at ¶¶ 36, 37).

¶ 13 Plaintiff also failed to provide competent testimony that she had adequate health reasons to justify her voluntary leaving. *Lojek*, 2013 IL App (1st) 120679 at ¶¶ 42, 45. At the evidentiary hearing, plaintiff testified that she informed her supervisor of her allergy problems that were interfering with her telephonic duties, and the supervisor advised her to seek medical assistance. Plaintiff stated that she did not do so because she did not have a "medical card" and could not afford it, and thus failed to provide evidence from a physician to corroborate her health problems. Instead, plaintiff told the claims adjudicator that she was sick for a few days and did not place further calls to her supervisor about her absence.

¶ 14 The record is also bereft of evidence to support that plaintiff made a reasonable effort to resolve the cause of her leaving when such effort was possible. 56 Ill. Adm. Code 2840.101(b) (2010); *Lojek*, 2013 IL App (1st) 120679 at ¶ 36). Plaintiff failed to follow up on her supervisor's suggestion regarding her allergies, or make herself available for work subject to an accommodation, and chose instead not to return to work. Although plaintiff testified to her failed attempt to speak with the owner of American Home about her reduced hours on her last day of work, she then admitted that she did not work the reduced hours assigned to her, and offered no other evidence of efforts she made to contact her supervisor or anyone else about her retention.

¶ 15 For the reasons stated, we conclude that the Board's finding that plaintiff voluntarily left her employment without good cause attributable to American Home is not clearly erroneous (*Lojek*, 2013 IL App (1st) 120679 at ¶ 40), and we affirm the order of the circuit court of Cook County to that effect.

¶ 16 Affirmed.