

FIRST DIVISION
March 12, 2012

No. 1-11-0873

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

BARBARA JO JOHNSON,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 11 L 50117
)	
ILLINOIS DEPARTMENT OF)	
EMPLOYMENT SECURITY; DIRECTOR)	
OF ILLINOIS DEPARTMENT OF)	
EMPLOYMENT SECURITY; BOARD OF)	
REVIEW; and DUPAGE SENIOR)	
CITIZENS COUNCIL c/o XCHANGING/)	
CAMBRIDGE INTEGRATED, BRUCE)	
KIJEWSKI,)	Honorable
)	Alexander P. White,
Defendants-Appellees.)	Judge Presiding.

JUSTICE KARNEZIS delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

ORDER

¶ 1 *Held:* Where plaintiff failed to return to job in Illinois after being in car accident in Oklahoma, Board's determination that plaintiff voluntarily left employment without good cause on the part of her employer, thus making her ineligible for unemployment benefits, was not clearly erroneous; the decision of the Board was affirmed.

¶ 2 Plaintiff Barbara Jo Johnson, proceeding *pro se*, appeals the order of the circuit court of Cook County affirming the decision of the Board of Review (the Board) of the Illinois

Department of Employment Security (the Department) denying her unemployment benefits. On appeal, plaintiff contends she is entitled to unemployment benefits because she did not voluntarily leave her employment but instead was prevented from returning to work due to circumstances beyond her control. We affirm.

¶ 3 The record establishes that plaintiff worked as an administrative assistant at the DuPage Senior Citizens Council (DSCC) from February 4 through July 29, 2010. Plaintiff began her employment with DSCC by being assigned to that organization through a federal training program. Plaintiff learned she could earn a higher hourly wage by being placed at the DSCC through Ajilon Professional Staffing (Ajilon), a temporary employment agency, and plaintiff worked at the office in that capacity from July 7 through July 29, 2010.

¶ 4 After July 29, 2010, plaintiff took approved time off to drive her daughter to college in Oklahoma. On August 7, 2010, plaintiff was involved in a car accident in Oklahoma.

¶ 5 Plaintiff filed a claim with the Department for unemployment benefits for the period of July 25 through August 7, 2010. On August 24, 2010, the Department denied plaintiff's claim, stating that she left work voluntarily without good cause attributable to her employer.

¶ 6 On October 19, 2010, a Department referee conducted a telephone hearing with plaintiff in which Ajilon did not participate. Plaintiff called into the hearing from Oklahoma but reported a home address in Berwyn, Illinois. Plaintiff acknowledged she worked up to and including the day of July 29 before she took time off to drive her daughter to college. Plaintiff testified she moved out of her apartment and placed her belongings in storage before leaving for Oklahoma because she could not afford to pay her rent, and she intended to return to work August 10 and move in with her sister in Berwyn upon returning from Oklahoma. Plaintiff testified that due to the car accident, in which she was not seriously injured, she "did not have the money to return" to Illinois and her car was in disrepair.

¶ 7 On October 20, 2010, the Department referee issued an order denying plaintiff's application for benefits under section 601(A) of the Illinois Unemployment Insurance Act (the Act) (820 ILCS 405/601(A) (West 2008)). The order stated plaintiff "quit her job due to personal reasons not attributable to the employer" and therefore was disqualified from receiving unemployment benefits.

¶ 8 Plaintiff appealed to the Board, which affirmed the denial of benefits. In a decision dated December 29, 2010, the Board stated it was not considering plaintiff's request to submit additional evidence included in plaintiff's November 8 "appeal letter" that was not introduced during the telephone hearing. On March 23, 2011, the circuit court affirmed the decision of the Board.

¶ 9 On appeal, plaintiff challenges the Board's determination that she is not entitled to unemployment benefits. She contends she did not voluntarily leave her employment without good cause and that she should receive benefits for the period of July 25 through August 7, 2010.

¶ 10 The Act's main purpose is to alleviate the economic insecurity and burden caused by involuntary unemployment. 820 ILCS 405/100 (West 2008); *Jaime v. Department of Employment Security*, 301 Ill. App. 3d 930, 933 (1998). "The Act is intended to benefit only those persons who become unemployed through no fault of their own." *Jones v. Department of Employment Security*, 276 Ill. App. 3d 281, 284 (1995).

¶ 11 The individual claiming unemployment insurance benefits has the burden of establishing his or her eligibility. *Hurst v. Department of Employment Security*, 393 Ill. App. 3d 323, 327 (2009). The Board is the trier of fact in cases involving claims for unemployment compensation, and we review the findings of the Board, rather than the findings of the Department referee. *Village Discount Outlet v. Department of Employment Security*, 384 Ill. App. 3d 522, 524-25 (2008).

¶ 12 It is first incumbent upon this court to note the overlap between plaintiff's acknowledged dates of employment and the dates for which she sought unemployment benefits. The record on appeal includes a listing of the dates and hours worked by plaintiff indicating that she worked each day during the week of July 26 through July 29, 2010, which is a portion of the July 25 through August 7 time period for which she later sought unemployment benefits. Clearly, plaintiff cannot receive unemployment benefits for days on which she worked.

¶ 13 Furthermore, plaintiff does not prevail on the merits of eligibility for unemployment benefits. Section 601(A) of the Act provides that an individual "shall be ineligible for benefits [when] he or she has left work voluntarily without good cause attributable to the employing unit." 820 ILCS 405/601(A) (West 2008). "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. *Childress v. Department of Employment Security*, 405 Ill. App. 3d 939, 943 (2010). This court has described the key inquiry as "whether the conduct of the employer caused the termination of employment to occur." *Jaime*, 301 Ill. App. 3d at 936, citing *Pearson v. Board of Review*, 194 Ill. App. 3d 1064, 1068 (1990); see also *Hawkins v. Department of Employment Security*, 268 Ill. App. 3d 927, 930 (1994) ("good cause" is such cause that "justifies an employee in voluntarily departing the ranks of the employed and in joining the ranks of the unemployed").

¶ 14 Whether an employee left work without good cause attributable to his or her employer involves a mixed question of law and fact to which we apply the "clearly erroneous" standard of review. *Childress*, 405 Ill. App. 3d at 942. An agency decision may be deemed clearly erroneous only where a review of the record leaves the reviewing court with a definite and firm conviction that a mistake has been made. *Childress*, 405 Ill. App. 3d at 942-43.

¶ 15 Applying that standard, the facts presented to the Board support its determination that plaintiff voluntarily chose not to return to work at DSCC. We note that, under the standard expressed in *Jaime* and numerous other cases, this court should focus on the conduct of the employer in determining whether plaintiff has good cause for leaving a job. However, the only relevant conduct of the employer in this case was the granting of leave to plaintiff to attend to her personal affairs. After plaintiff took her time off from work, she was involved in a car accident that delayed her return to Illinois.

¶ 16 Whether an employee voluntarily discontinued her employment is a question of intent and is to be determined from the totality of the evidence presented. *Arroyo v. Doherty*, 296 Ill. App. 3d 839, 846 (1998). In arguing that she did not quit her job, plaintiff asserts that circumstances prevented her from returning to Illinois, and she recounts a series of personal travails, including financial and transportation issues. However, plaintiff's inability to return to work was not the result of any action attributable to her employer. The circumstances of plaintiff's transportation, finances and living arrangements were solely in plaintiff's control. See, e.g., *Collier v. Illinois Department of Employment Security*, 157 Ill. App. 3d 988, 994 (1987) (plaintiff's "domestic finances" were not a factor attributable to employer); *Jones v. Department of Labor*, 140 Ill. App. 3d 699, 700 (1986) (plaintiff's act of leaving job due to "domestic and transportation concerns" was not a cause attributable to employer).

¶ 17 In summary, the Board's determination that plaintiff left her job for personal reasons not attributable to her employer was not clearly erroneous. Accordingly, the decisions of the Board and the circuit court are affirmed.

¶ 18 Affirmed.