

COMMONWEALTH COURT OF PENNSYLVANIA

Kash Snyder v. Unemployment Compensation Board of Review

No. 1184 C.D. 2015 (Pa. Cmwlth. June 3 2016) · No. No. 1184 C.D. 2015 · Decided June 3, 2016

SUMMARY

The Pennsylvania Commonwealth Court affirmed the Unemployment Compensation Board of Review's denial of benefits to Kash Snyder under section 402(b) of the Pennsylvania Unemployment Compensation Law. The court held that Snyder voluntarily quit his employment after rejecting an employer-proposed part-time accommodation to pursue elected office, and that he failed to establish a necessitous and compelling reason for leaving. The court also upheld the denial of his request for a remand or reconsideration based on unspecified new evidence.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Rochelle S. Friedman, Senior Judge; Renée Cohn Jubelirer, Judge; Michael H. Wojcik, Judge
JURISDICTION	Pennsylvania
DECIDED	June 3, 2016
DOCKET	No. 1184 C.D. 2015
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant petitioned for review of the Unemployment Compensation Board of Review's order affirming a referee's denial of unemployment compensation benefits under section 402(b) of the Pennsylvania Unemployment Compensation Law.
STANDARD OF REVIEW	Review was limited to whether constitutional rights were violated, whether the adjudication was in accordance with law, and whether necessary findings of fact were supported by substantial evidence. Whether the claimant voluntarily quit or was discharged was a question of law reviewed on the totality of the record. The court reviewed the UCBR's reconsideration decision for abuse of discretion.
PRECEDENTIAL VALUE	Unreported memorandum opinion; nonprecedential
PARTIES	Kash Snyder v. Unemployment Compensation Board of Review

TOPICS

unemployment benefits

administrative law

appellate procedure

standard of review

PRACTICE AREAS

unemployment compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether Snyder voluntarily quit his employment or was discharged when the employer sent him home after he requested reduced hours.
2. Whether Snyder established a necessitous and compelling reason for voluntarily leaving employment based on the reduced earnings and benefits associated with the employer's proposed part-time accommodation.
3. Whether the UCBR abused its discretion by denying Snyder's request for an additional hearing or reconsideration to present allegedly newly available evidence.

HOLDINGS

1. Snyder voluntarily quit his employment; the employer's instruction that he go home while it considered his request did not possess the immediacy or finality required for a discharge.
2. Snyder failed to establish a necessitous and compelling reason for quitting because the reduced part-time position was an accommodation to his own request to work part time, and his dissatisfaction with the position's earnings and commission opportunities did not create real and substantial pressure to quit.
3. The UCBR properly denied Snyder's request because he failed to specify the nature of the allegedly unavailable evidence, what testimony was false, or how the proposed evidence related to his entitlement to unemployment compensation.

KEY QUOTATIONS

“To be interpreted as a discharge, an employer’s language must possess the immediacy and finality of firing.”
(at 3)

“An employer’s unilateral imposition of a substantial change in the terms and conditions of employment provides a necessitous and compelling reason for an employee to leave work.” (at 4)

FACTUAL BACKGROUND

Snyder worked as a closer for Timasar Investment Group, LLC, earning \$8 per hour plus commission, while pursuing elected office. He requested to work afternoons only for at least three months, and the employer offered him a part-time qualifier position at \$10 per hour plus commission after stating that it had not discharged him. Snyder rejected that position because he believed it would provide insufficient commission earnings and did not continue working. The UCBR credited the employer's testimony and found that Snyder voluntarily quit to pursue elected office.

PROCEDURAL HISTORY

The local service center denied Snyder's claim for unemployment compensation. A referee held a hearing and concluded that Snyder voluntarily quit without a necessitous and compelling reason. The UCBR affirmed, denied Snyder's request for an additional hearing and reconsideration, and Snyder petitioned the Commonwealth Court for review.

DISPOSITION

affirmed

CASES CITED

- Bell v. Unemployment Compensation Board of Review, 921 A.2d 23, 26 (Pa. Cmwlth. 2007)
- Fishel v. Unemployment Compensation Board of Review, 674 A.2d 770, 772 (Pa. Cmwlth. 1996) (en banc)
- Wert v. Unemployment Compensation Board of Review, 41 A.3d 937, 940 (Pa. Cmwlth. 2012)
- McCarthy v. Unemployment Compensation Board of Review, 829 A.2d 1266, 1270 (Pa. Cmwlth. 2003)
- Laster v. Unemployment Compensation Board of Review, 80 A.3d 831, 834 n.5 (Pa. Cmwlth. 2013)
- Georgia-Pacific Corporation v. Unemployment Compensation Board of Review, 630 A.2d 948, 951 (Pa. Cmwlth. 1993)
- Flores v. Unemployment Compensation Board of Review, 686 A.2d 66, 75 (Pa. Cmwlth. 1996)
- Pastorius v. Unemployment Compensation Board of Review, 411 A.2d 1301, 1304 (Pa. Cmwlth. 1980)