

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Brewster v. Rutledge, 176 W. Va. 265

342 S.E.2d 232 (1986) · No. No. 16775 · Decided April 3, 1986

SUMMARY

The Supreme Court of Appeals of West Virginia held that an employee was not disqualified from receiving unemployment compensation after quitting in response to substantial unilateral changes in his working conditions. The court determined that increased duties without additional compensation, together with a prior wage reduction, constituted good cause involving fault on the employer's part under West Virginia Code § 21A-6-3(1). The court reversed the circuit court and remanded with instructions to award unemployment benefits.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Appeals of West Virginia                                                                                                                                                                                                                                            |
| WRITING FOR THE COURT | Per Curiam                                                                                                                                                                                                                                                                           |
| JURISDICTION          | West Virginia                                                                                                                                                                                                                                                                        |
| DECIDED               | April 3, 1986                                                                                                                                                                                                                                                                        |
| DOCKET                | No. 16775                                                                                                                                                                                                                                                                            |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | Claimant appealed from a judgment of the Circuit Court of Kanawha County affirming the Board of Review's final order disqualifying him from unemployment compensation benefits because he allegedly quit voluntarily without good cause involving fault on the part of the employer. |
| STANDARD OF REVIEW    | The Board of Review's factual findings are not set aside unless plainly wrong. The plainly wrong doctrine does not apply to the Board's conclusions of law, which are reviewed as legal questions.                                                                                   |
| PRECEDENTIAL VALUE    | Published, precedential decision of the Supreme Court of Appeals of West Virginia.                                                                                                                                                                                                   |
| PARTIES               | Floyd H. Brewster v. Phyllis J. Rutledge, Clerk, Sayer Brothers, Inc., Employer, Department of Employment Security appellees                                                                                                                                                         |

TOPICS

## PRACTICE AREAS

Unemployment compensation

Administrative law

Employment law

## QUESTIONS PRESENTED

1. Whether Brewster's resignation was voluntary without good cause involving fault on the part of the employer under W. Va. Code § 21A-6-3(1).
2. Whether substantial unilateral changes in compensation and job duties may constitute good cause for quitting and prevent disqualification from unemployment benefits.
3. Whether the plainly wrong standard governs the Board of Review's legal conclusion that Brewster was disqualified from benefits.

## HOLDINGS

1. A substantial unilateral change in the terms and conditions of employment, including increased duties without increased compensation and a substantial wage reduction, may constitute good cause involving fault on the part of the employer and justify an employee's resignation without disqualification from unemployment compensation benefits.
2. The plainly wrong doctrine applies to the Board of Review's factual findings but not to its conclusions of law.
3. Brewster did not quit voluntarily without good cause involving fault on the part of the employer within the meaning of W. Va. Code § 21A-6-3(1), and he was entitled to unemployment compensation benefits as provided by law.

## KEY QUOTATIONS

*"[S]ubstantial unilateral changes in the terms of employment furnish 'good cause involving fault on the part of the employer' which justify employee termination of employment and preclude disqualification from the receipt of unemployment compensation benefits." (233)*

*"Unemployment compensation statutes, being remedial in nature, should be liberally construed to achieve the benign purposes intended to the full extent thereof." (234)*

*"[T]he plainly wrong doctrine does not apply to conclusions of law by the Board of Review." (234)*

## FACTUAL BACKGROUND

Brewster worked as a night watchman for Sayer Brothers-Super S from August 24, 1980, through November 1, 1983, averaging approximately seventy hours per week. His hourly pay was reduced from \$3.35 to \$2.25 in February 1983, and the employer later added janitorial duties without increasing his compensation. After being told that an additional janitorial task would become part of his duties, Brewster quit, believing he could no longer tolerate the working conditions.

## PROCEDURAL HISTORY

The administrative law judge found that Brewster voluntarily left his employment without qualifying cause, and the Board of Review adopted those findings. The Circuit Court of Kanawha County affirmed the Board's final order. The Supreme Court of Appeals of West Virginia reversed and remanded with directions to award unemployment compensation benefits.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand to the Commissioner of the Department of Employment Security with instructions to enter an order awarding Brewster unemployment compensation benefits as provided by law.

## CASES CITED

- Murray v. Rutledge, 327 S.E.2d 403 (W. Va. 1985)
- Ross v. Rutledge, 338 S.E.2d 178 (W. Va. 1985)
- Davis v. Hix, 140 W. Va. 398, 84 S.E.2d 404 (1954)
- Bailey v. Rutledge, 327 S.E.2d 456 (W. Va. 1985)
- Perfin v. Cole, 327 S.E.2d 396 (W. Va. 1985)
- Kisamore v. Rutledge, 276 S.E.2d 821 (W. Va. 1981)
- Cumberland & Allegheny Gas Co. v. Hatcher, 147 W. Va. 630, 130 S.E.2d 115 (1963)
- Lee-Norse Co. v. Rutledge, 291 S.E.2d 477 (W. Va. 1982)