

Vol. leaving employment without just cause.  
Inadequate findings of fact - case sent back  
to new SSAT

NO.

RAS/16/LM

Commissioner's File: CU/31/1988

Region: Midlands

SOCIAL SECURITY ACTS 1975 TO 1986  
CLAIM FOR UNEMPLOYMENT BENEFIT  
DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Alan Thomas D

Appeal Tribunal: Manchester

Case No: 614/04999

1. My decision is that the decision of the social security appeal tribunal dated 2 November 1987 is erroneous in law. I set it aside and direct that the case be reheard by a differently constituted tribunal.
2. The claimant appeals against the tribunal's decision upholding the decision of an adjudication officer that the claimant was disqualified for receiving unemployment benefit from 22 May 1987 to 20 August 1987 (both dates included) because in the adjudication officer's view the claimant voluntarily left his employment without just cause: section 20(1)(a) of the Social Security Act 1975.
3. The claimant never denied he had left his employment voluntarily. His case was that he had just cause for leaving because "the safety standards adopted by my ex-employers were appalling and I believed there was a risk to my health and safety". The employers denied the claimant's accusations and it was of course essential for the tribunal to resolve that issue. There is nothing in the findings of fact made by the tribunal which assists an understanding of the tribunal's view of the matter. But in the reasons they gave for disallowing the appeal they said that the claimant had not proved just cause because "he failed to report the inadequate safety system and particularly in that he failed to insist that the equipment supplied was taken out on site". So it seems from that that they accepted that the system of work was unsafe but they blamed the claimant. Apart from anything else, that fails to take account of the claimant's case about the difficulties of bringing safety matters to the employers' attention, the pressure the employees were under to ignore safety standards in the interests of economy and that he had in fact pointed out the dangers to the employers but his complaints were just laughed at. The tribunal's decision is plainly defective in that the findings of fact are inadequate and there is nothing to indicate how the tribunal reached their conclusion or what they made of the claimant's evidence or why, if they did, they rejected it. There is another respect in which the decision is defective. The adjudication officer had imposed the maximum, thirteen weeks, disqualification but gave no explanation as to why he thought that maximum was appropriate. That was a matter which should have been considered by the tribunal. They had to exercise a discretion as to the appropriate period of disqualification and explain why they exercised their discretion in the way they did. Their failure to do so is a further error of law. I allow the claimant's appeal. The new tribunal must pay careful attention to the claimant's case, make all necessary findings of fact and give reasons which show how they arrive at their conclusion.

(Signed) R A Sanders  
Commissioner

Date: 17 May 1989