

Cu 392/1976

JSW/MB

SOCIAL SECURITY ACTS 1975

CLAIM FOR UNEMPLOYMENT BENEFIT

DECISION OF THE NATIONAL INSURANCE COMMISSIONER

Name: Marie Madeleine Walezak (Miss)

Local Tribunal: Acton and District

Case No. 35/3

Cu 392/1976

[ORAL HEARING]

1. My decision is that the claimant is disqualified for receiving unemployment benefit for the inclusive period 22 January 1976 to 21 February 1976 because she voluntarily left her employment without just cause as provided by section 20(1)(a) of the Social Security Act 1975.

2. At the oral hearing of this appeal by the claimant before me, she was represented by Mr M Rowland on behalf of the Citizens' Rights Office and the insurance officer was also represented.

3. The claimant, aged about 50, was employed as a secretary from 11 November 1975 until she admittedly left voluntarily on 31 December 1975. She stated that she gave one month's written notice on 3 December 1975 which was intended and taken to be back dated to 1 December. As she admittedly left voluntarily, it is for her to show that she did not leave without just cause.

4. The claimant gave evidence before me at length and made many complaints about her work and the conditions in which she was required to do her work. She said that she did not do shorthand and that the work she was required to do was complicated and technical consisting of symbols and computer language. The employers were a computing services company. She had not done that sort of typing previously and it did not make use of her skills or of her language qualifications. She said she had to work under continuous pressure for a number of men and no one sorted out the priorities. She worked in an alcove, the ventilating system was not working properly and it became very stuffy and hot. There were 3 telephones on her desk, which were ringing almost continuously, and, when her colleague was not in her place, the claimant had to attend to her 3 telephones as well as her own. Her basket for typing work to be done was continuously full and she developed nagging headaches.

5. The claimant's main discomfort seems to have arisen because a specification for a large, well-known company of retail suppliers came into the office, which was different from other tasks and was complicated. She said that began about the beginning of December.

Different layouts were given to her to type and were altered had to be retyped. She conveyed the impression that the new undertaking led to chaos in the office and that she was not given proper or adequate instructions. She said that she felt tired and ill and had a headache and stayed at home for 2 days at the beginning of December. As soon as she returned to work on 3 December, she typed her notice to terminate her employment and handed it in.

6. On her return to work, she found that conditions had vastly improved. A young executive had been put in charge and additional staff had been engaged. Someone else was put in charge of the telephones and her place of work was changed so that she was near to a window and had good light and better air. She was not to be given other work apart from the specification. She said that there was "tremendous improvement". She therefore informed the personnel officer that she wished to withdraw her notice. She was referred to her "boss" but nothing came of her wish to withdraw her notice and she left on 31 December. She stated that about 2 weeks after commencing the employment and subsequently she had discussed her complaints with the personnel officer and twice with her "boss". She had told him that she could not stand the chaos any more but nothing happened immediately. In her written evidence, she stated that, when she asked to withdraw her notice, the personnel officer had told her that once the specification had been completed, the office would revert to what it had been previously. In the written further submission by the claimant's representative, it is stated in paragraph 3(5) that she dropped her request to withdraw her notice.

7. The claimant said before me that she had sought other employment before leaving and had applied to several places for work before she gave in her notice. She had had no offer of interviews. She was registered with agencies before she commenced the employment concerned in this appeal and had not withdrawn her name from the registrations when she commenced the employment. She had been offered another job by an agency about the same time as the employment under consideration and had accepted the latter employment because it was permanent while the other offer was for temporary employment.

8. The claimant was asked by the insurance officer's representative about her evidence before the local tribunal recorded in the chairman's note of evidence to the effect that she had stated before the tribunal that she "did not see anyone about the poor conditions of work" and had "not actively looked for another job" and that she "did not discuss the matter with anyone in a superior position as I felt it would be useless. When I gave in my notice I had no alternative employment, but I felt my health came first". The claimant said that several parts of the report of the proceedings of the local tribunal were wrong, that the chairman's note of her evidence was completely misleading and it was not what she had said and did not record the impression she wanted to convey.

9. Mr Rowland submitted that medical evidence as to the claimant's state of health would not assist in this case. I agree with him: there is no reason to suppose that the claimant left her employment because of ill health. Indeed, she said herself that she wished

to withdraw her notice. In my opinion, it was the claimant's temperament and not sickness which affected her attitude towards her work. Mr Rowland also submitted that it was probably not so much the nature of the work but the way it was organised which upset her. He said that it was different from the work she had done before. The claimant stated that she had been employed at an embassy and no doubt she found conditions rather different when working for the employers, whose business was computing services. Mr Rowland submitted that it was her inability to cope with the conditions which led to her giving notice and the fact that she gave notice after only 3 weeks in the employment indicated pressure.

10. Mr Rowland referred to Decision R(U) 3/73 as applicable to the claimant's case. The circumstances of that case were entirely different. That case concerned a trainee manager who, after 6 weeks of a probationary period of 3 months had elapsed, resigned from his employment because he concluded that he was not suited to the work. The principle of that decision is that unemployed persons should be encouraged to take a chance and try different employment if work in their own line is not available and they should not be dealt with too severely if the experiment failed. The Commissioner decided that the claimant had acted in a responsible manner and had just cause for leaving the employment. Employment as a secretary was the claimant's usual occupation at which she had worked previously and she said that she took up the particular employment because it was permanent in preference to the temporary employment which she had been offered at about the same time. She did not take it up as an experiment and it was not different from her usual employment and she herself did not suggest either of those reasons.

11. Having heard and seen the claimant, I formed the impression that she had exaggerated the conditions and requirements of her work. The nature of her work was different from that which she had done previously but was not beyond that of a person who undertakes work as a secretary. She said that she was already seeking other employment before she gave her notice and it would appear that very soon after taking up the employment she had made up her mind to leave. Once having made up her mind, she impressed me as a person who was very unlikely to change it whatever the circumstances. I think it probable that, when the specification came in from the large company, which she said was about the beginning of December, there may have been some disorganisation of the office routine and work. The claimant was apparently not prepared to allow for a temporary upset which, according to her, seems to have been resolved when she returned to work on 3 December. She gave notice after only 3 weeks in the employment and, in my judgment, acted precipitately. In some respects her evidence was different before me than it was before the local tribunal and I did not find her evidence altogether satisfactory. No doubt she has given it much thought since she appeared before the local tribunal on 5 May 1976. I doubt whether she tried very hard to withdraw her notice to terminate her employment if in fact she did not withdraw it.

12. Having read the record of the case and heard the claimant's evidence and the submissions on her behalf, in my judgment she left her employment voluntarily without just cause. The local tribunal so decided unanimously and dismissed her appeal from the decision of the insurance officer. I find no valid ground for disagreeing with their unanimous decision or for reducing the period of disqualification for receiving unemployment benefit of 4 weeks and 3 days imposed by the local insurance officer, which the tribunal did not reduce.

13. The claimant's appeal is dismissed.

(Signed) J. S. Watson
Commissioner

Date: 6 December 1976

Commissioner's File: C.U. 392/1976
C.I.O. File: I.O. 3437/U/76
Regional File: S.E. (Unregistered Papers)