

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,715
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare imposing on him a 90-day period of ineligibility for food stamps. The issue is whether the petitioner voluntarily quit a job without good cause within the meaning of the pertinent regulations.

FINDINGS OF FACT

The petitioner is a twenty-six-year-old single man who has a history of complaints of back pain. Before December, 1992, he was unemployed and receiving food stamps.

In early December, 1992, the petitioner began working as a housekeeper at a condominium complex near a local ski area. When he took the job he did not mention any health problems either to his employer or to the Department. The petitioner does not have a driver's license, so his employer arranged for him to ride to the job with a coworker. Shortly thereafter it appears that the Department terminated the petitioner's food stamps (as of December 31, 1992) based on his income from this employment. However, the petitioner worked at this job for only two weeks. On December 18, 1992, he called his supervisor to say he was quitting. At that time

he did not give a reason, but a few days later when he went to pick up his last paycheck he told his employer that he was moving to Florida. Immediately after leaving the job the petitioner reapplied for food stamps. The Department denied his application and imposed a 90-day disqualification period, determining that the petitioner had voluntarily quit his last job without good cause.

The petitioner then failed to appear at his hearing scheduled on January 14, 1993. A subsequent default inquiry sent by the board to the petitioner's last known address in Vermont was returned unopened by the post office. The district office then informed the board that the petitioner had left the state without leaving a forwarding address. On the advice of the district, however, the board remailed the default inquiry to another local address that the petitioner had previously used. On March 4, 1993 (within the time allowed on his default notice) the petitioner called the board to say he was back in Vermont and wished to pursue his appeal.

After one more continuance (this time at the request of the Department) a hearing was held on April 16, 1993.

It turns out that shortly after January 1, 1993, the petitioner had moved to Kansas. On January 15, 1993, he began working at a fast food restaurant in that state. While there, the petitioner sought medical treatment, which he maintains

was for back pain aggravated by that job.¹ The petitioner also maintains that because of his back problem he was forced to leave that job on January 31, 1993. The petitioner then decided to return to Vermont.

The petitioner applied again for food stamps (in Vermont) on March 5, 1993. This application was granted effective March 18, 1993, the date his 90-day penalty expired. At issue in this appeal are the benefits the petitioner continued to receive in December and January following his quit of the housekeeping job and the period from March 8 to March 18, 1993, after he had reapplied for benefits upon returning from Kansas.²

The petitioner produced medical evidence that on March 8, 1993, he received emergency room treatment (in Vermont) for "neck and upper back pain" and was prescribed medication. On March 9, 1993, a doctor stated (on a Department GA form) that for an estimated period of six months the petitioner could not

¹The petitioner produced evidence only of the dates of his treatment (January 27-28, 1993) and a statement from the physician that no further information would be provided until the petitioner paid his bill in full.

²It is not clear why the petitioner received continuing benefits for January, 1993. It appears, however, that the Department continued the petitioner's benefits because the petitioner's request for a fair hearing was made prior to the date his benefits were to end due to the fact that he had taken the job in the first place and before the Department gave him written notification of the subsequently-imposed disqualification period. It also appears that the petitioner was not mailed food stamps for February because he had moved out of state.

do "any employment where lifting or heavy work is involved" due to "scoliosis" in his back.³

The petitioner maintains that he left his housekeeping job in December, 1992, because his back was getting worse and because the coworker with whom he rode to work complained to him that her insurance would not cover him. The petitioner admits, however, that the coworker did not refuse to drive him to work and that he never raised either concern (back problems or transportation) with his employer.

Based on the petitioner's testimony and the other evidence he submitted at the hearing it is found that the petitioner left the restaurant job in Kansas in March, 1993, primarily due to back problems that became severe at that time. The same cannot be found, however, for his leaving the housekeeping job in Vermont in December. Although it appears that his back problems may be chronic, there is no credible evidence that in December, 1992, they were severe enough to keep him from working. The petitioner made no complaints and did not seek any medical treatment at that time. His testimony regarding the alleged problems he was having with his transportation to that job was also unconvincing. It appears that when the petitioner left his housekeeping job he had already decided to leave the state--for reasons unrelated to his health. It is deemed highly doubtful that if the

³It appears the Department has accepted this assessment for purposes of the petitioner's eligibility for GA.

petitioner could no longer work because of back pain, rather than seeking medical treatment at the time he would travel to Kansas and take another similarly strenuous job.

It is found, therefore, that the petitioner voluntarily quit his previous job in Vermont not because of health or transportation problems but primarily because he had decided to move out of state.

ORDER

The Department's decision is modified. The petitioner should be found ineligible for food stamps only from the time he quit his job in Vermont to the time he began his job in Kansas--December 18, 1992, through January 15, 1993.

REASONS

Food Stamp Manual (F.S.M.) § 273.7(n)(1)(v) provides that an individual applying for food stamps who voluntarily quits a job without "good cause" shall be disqualified from receiving food stamps for 90 days starting from the date of the quit. "Illness" and "unavailability of transportation" are included in the definitions of "good cause". F.S.M. §§ 273.7(m) and (n)(3). A unilateral decision to move away from a job is not considered "good cause". Id.

The regulations also provide that "(e)ligibility may be re-established during a disqualification period if (the disqualified individual) secures new employment which is

comparable in salary and hours to the job which was quit . . .
Comparable employment may entail fewer hours or a lower net
salary than the job which was quit." F.S.M. §
273.7(n)(5)(ii).

Based on the above findings it is concluded that the
petitioner in this matter did not have "good cause" to quit
the housekeeping job he held in December, 1992. Therefore,
the 90-day disqualification from food stamps imposed as of the
date he quit that job was correct under the regulations.
However, it is also concluded that because the restaurant job
was "comparable" to the housekeeping job he had quit the
previous month, the petitioner's disqualification should have
ended on January 15, 1993--the date he took the restaurant job
in Kansas. Moreover, because the petitioner did have "good
cause", due to medical reasons, to quit the restaurant job he
took in Kansas in January, 1993, no further disqualification
is appropriate.

The Department's decision is modified accordingly.

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