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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DEBORAH I. LONG,

Claimant-Appellant,

-v-

Case No. 98-824160-AE  
Hon. Pamela R. Harwood

GENERAL MOTORS CORPORATION,

Respondent-Appellee

and

STATE OF MICHIGAN UNEMPLOYMENT  
AGENCY, DEPARTMENT OF CONSUMER  
AND INDUSTRY SERVICES,

Respondent-Appellee.

FILED  
TEOLA P. HUNTER  
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*[Signature]*



OPINION OF THE COURT REVERSING  
THE DECISION OF THE BOARD OF REVIEW

Claimant-appellant Deborah I. Long seeks review of a decision by the State of Michigan Unemployment Agency Board of Review (hereafter "Board") decision finding her not qualified for benefits during the week of March 10, 1996 to March 16, 1996 on the basis of her failure to timely file her claim for benefits. The decision of the Board reversed the determination of the hearing referee that appellant had good cause for late filing and thus was qualified for benefits. Appellant submits that the decision of the Board was in error. Briefs have been filed by all interested parties and oral arguments have been waived.

Appellant worked for appellee General Motors at its Detroit-Hamtramck plant. Plaintiff was laid off on Monday, March 8, 1996. According to regulations of the Unemployment Agency, appellant was required to file her claim for unemployment benefits within seven days of her last day of work. MCL 421.32(a); 1996 MR 8, R 421.210. Appellant did not file her claim until March 18, 1996, more than seven days later. However, if good cause is shown, this filing deadline is extended to fourteen days. Appellant was within this fourteen days.

Appellant was initially found ineligible for benefits. The Commission stated: "Failure to file timely because of a reliance on information from a source other than this commission is not deemed good cause for late filing." Record on Appeal, p 21. Appellant appealed this determination and asserted that she had good cause for late filing. Plaintiff worked a half day and was sent home in the middle of her shift on Friday, March 8, 1996. Her foreman at General Motors told her that her lay-off was not effective until Monday, March 11, 1996. Further, appellant asserted that she relied upon this representation and a notice from the union which advised her to file her claim in the week following her layoff. Transcript of Hearing, pp 5-8. The notice stated: "In the event you are laid off due to a parts shortage caused by the strike . . . you should apply for unemployment compensation at your U.C. Office. Report in the week following the week in which you are laid off." Record on Appeal, p 27. Appellant also asserted that she had asked several persons, including the plant chairman, her foreman, and a number of union representatives, when her claim should be filed. Appellant was told to "Go by the Union letter." Transcript of Hearing, p 9. The referee found that appellant had demonstrated good cause and found her eligible for benefits stating:

The ALJ had an opportunity to observe the demeanor of claimant under oath at the hearing and had no reason to doubt her testimony. The claimant's testimony was not refuted as to why she waited until March 18, 1996 to file her claim. The claimant received information from her foreman that the layoff would not be effective until March 11, 1996. That claimant acted as a reasonable person would in light of the surrounding circumstances, in relying on information received from her foreman regarding her layoff. Record on Appeal, p 31.

The employer appealed this determination and the Board reversed the referee. Appellant appeals from the decision of the Board.

The applicable scope of review is set forth in Broyles v Aeroquip Corp, 179 Mich App 175, 177; 445 NW2d 222 (1989):

On appeal from decisions of the Board of Review, [the court] may review questions of law or fact, but . . . can reverse only if the order or decision is contrary to law or is unsupported by competent material and substantial

evidence on the record. If there is no dispute as to underlying facts, questions presented on appeal are to be treated as matters of law.

In the present case, the only dispute concerns whether appellant had good cause for late filing. Because the underlying facts are not in dispute, questions presented on appeal are treated as matters of law.

The applicable rule, 1996 MR 8, R 421.210(2)(c) provides:

"Good cause for . . . late reporting to file a continued claim" means that there is a justifiable reason, determined in accordance with a standard of conduct expected of an individual acting as a reasonable person in light of all the circumstances, which prevented a timely . . . reporting to file as required by this rule. Examples of justifiable reasons that the commission may consider as constituting good cause include the following:

- (i) Acts of God.
- (ii) Working, reliance on a promise of work that did not materialize, or seeking work where there is a reasonable indication the work is available.
- (iii) Closing of commission offices, or failure of the commission's telephonic or electronic equipment, during scheduled hours of operation.
- (iv) Delay or interruption in the delivery of mail or the delay or interruption of information by telephonic or other means by a business or governmental agency entrusted with the delivery of mail or of message by telephonic or other means.
- (v) Personal physical incapacity or the physical incapacity or death of a relative or ward of either the individual or the individual's spouse or of any person living in the same household as the individual claimant benefits.
- (vi) Attendance at a funeral.
- (vii) Incarceration.
- (viii) Jury duty.

As the language of the rule indicates, supra, this list is merely representative and is not exhaustive.

In finding appellant disqualified for benefits, the Board stated:

If the claimant had been misled by the Commission (Unemployment Agency) we might be inclined to find there was good cause for the claimant's failure to timely file. However, this did not occur. . . . Notably, [the] misinformation was disseminated by the union and not the Commission. . . .

In conclusion, we wish to say that if the claimant was confused the claimant should have contacted the Commission. The fact that contacting the Commission by telephone might have been inconvenient is irrelevant. It is action that would have been taken by a reasonable person under the same circumstances. Consequently, we find the claimant is without a justifiable reason for the failure to timely file and therefore there is no good cause which excuses the late filing. Record on Appeal, p 50.

Clearly, the Board found that appellant had not established good cause because she had relied upon someone other than the Commission for information regarding filing for benefits.

The court finds that the Board's conclusion that appellant had not acted as a reasonable person to be erroneous. There is no evidence on the record presented that appellant found it "inconvenient" to call the commission. Rather, the evidence shows that appellant relied upon statements made by her employer and the union which instructed her to file the week after she had been laid off. As the referee stated during the hearing:

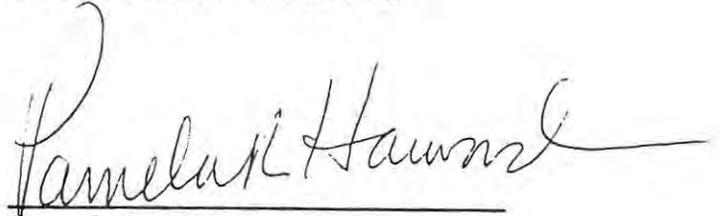
[H]er testimony is, the Employer told her that the layoff didn't start until the 11th; moreover, she got that letter from the union.

Is that the same letter where the union -- which is right, you file the week after your layoff. She didn't misconstrue it. If she was laid off on the 11th, then she followed the correct instructions, didn't she? Transcript on Appeal, p 12.

Further, the rule setting forth what is "good cause", supra, provides in subsection (ii): "*Working, reliance on a promise of work that did not materialize, or seeking work where there is a reasonable indication the work is available.*" (emphasis added) Clearly, the rule allows for reasonable reliance on representations made by persons other than the unemployment commission. In this case, there is no dispute that appellant relied on representations by her employer as to the date she was laid off. It is not unreasonable under the circumstances, i.e. appellant worked a half day and was sent home in the middle of the shift, that appellant would rely on the representation that her layoff was not effective until the following work day. Further, there is no dispute that appellant relied upon the notice from the union, statements by her employer's

agents, and her union representatives, telling her when to file for benefits. It is not unreasonable that appellant would rely on her employer and her union for information about her employment status and the correct procedure she should follow to file for benefits. Although it may also have been reasonable to follow a different course of action, appellant did not act unreasonably because she did not do so. The decision of the Board is not supported by competent material and substantial evidence on the record.

For the reasons stated herein, the decision of the Board is reversed.



Pamela R. Harwood  
Circuit Court Judge

DATED: JAN 29 1999