



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: NOVEMBER 16, 2020

IN THE MATTER OF:

Appeal Board No. 612172

PRESENT: JUNE F. O'NEILL, GERALDINE A. REILLY MEMBERS

The Department of Labor issued the initial determination holding the claimant eligible to receive benefits, effective January 6, 2020. The employer requested a hearing and objected contending that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause.

The Administrative Law Judge held telephone conference hearings at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on

behalf of the employer. By decision filed August 21, 2020 (A.L.J. Case No. ), the Administrative Law Judge granted the employer's application to reopen and overruled the employer's objection and sustained the initial determination.

The employer appealed the Judge's decision to the Appeal Board, insofar as it overruled the employer's objection and sustained the initial determination.

Based on the record and testimony in this case, the Board makes the following

**FINDINGS OF FACT:** The claimant worked as a bookkeeper from May 3, 2006 to January 3, 2020 in the employer's electrical supply distribution company. The claimant performed services in an office that was located inside the employer's warehouse. The claimant was supervised by the owner. The owner's husband had a workshop located in a loft without windows above the claimant's office. The owner's husband used the loft for painting, varnishing and gluing

models using a sprayer; completing home improvement projects with glue and paint and making furniture and cabinets in the hobby woodshop area of the loft.

While at work in her office, the claimant had headaches, was dizzy, nauseous, had dry eyes and nasal cavities and her eyes burned badly at times. The ill effects sometimes lasted for days. The claimant told the owner and her husband that she believed her symptoms were caused by the tasks performed in the loft. She also sought medical treatment but stopped going to the doctor once it became clear that her symptoms were caused by environmental issues.

The claimant expressed her concerns to the owner that the tasks performed in the workshop area were emitting volatile organic compounds (VOCs) that could negatively impact the health of those in the area. In or about September 2018, the owner purchased an air quality monitor that measured the levels of VOCs in the air. The claimant continued to feel the same ill effects at work from time to time. The owner's husband attempted to locate sources of the VOCs that were difficult to specifically locate. The owner's husband made some changes to the air filters, filled in holes that could impact the ventilation and made some other changes. The owner's husband recalibrated the VOC monitor twice. The claimant was asked to open the windows in her office and run an exhaust fan for the ventilation at times that included winter conditions in New York.

On October 23, 2019, the claimant checked the air quality monitor and observed a VOC level of 739. The claimant left the office because she was feeling nauseous and dizzy. On October 24, 2019, the claimant sent a text message to the employer's owner submitting her resignation because of the air quality issues and the expectation that the claimant opens her windows at work during wintertime to resolve the air quality issue. The owner responded to the claimant by text message that it was the least that she could do was to stay and train a replacement. The claimant agreed to work until January 3, 2020 to train her replacement.

**OPINION:** The credible evidence establishes that the claimant left her employment because conditions in the workplace were having an adverse impact on her health. Although the general rule is that a claimant who quits due to medical issues may need medical advice to leave employment in order to establish good cause, the rule is not absolute. The Appeal Board has held that there may be certain circumstances where a claimant is in the best position to know whether his or her health is affected by conditions at the workplace. In Appeal Board No. 556348, for example, the Appeal Board found good cause where

the claimant quit, among other reasons, because "the racially charged working environment, inadequate training on the computer and the lack of support from the district manager in working with a critical supervisor contributed to raising the claimant's blood pressure and blood sugar to dangerous levels." And in Appeal Board No. 583768, good cause was also found where stresses at work adversely affected the claimant's longstanding medical conditions and the claimant had advised the employer about the issue).

In this case, the claimant had spoken to the employer about the environmental problems at work and the employer had, in fact, attempted to alleviate those problems, but without success. In addition, the claimant had sought medical treatment initially, before she realized her symptoms were caused by environmental

factors at the workplace. The fact that the claimant continued working for slightly more than two months is not dispositive, given that she remained at the request of the employer. Under the circumstances of this case, we conclude that the claimant had good cause to quit. Accordingly, we conclude that the claimant was separated from employment under nondisqualifying circumstances.

DECISION: The decision of the Administrative Law Judge, insofar as appealed from, is affirmed.

The employer's objection, that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause, is overruled.

The initial determination, holding the claimant eligible to receive benefits effective January 6, 2020, is sustained.

The claimant is allowed benefits with respect to the issues decided herein.

JUNE F. O'NEILL, MEMBER

GERALDINE A. REILLY, MEMBER