

UNEMPLOYMENT COMPENSATION COMMISSION OF NORTH CAROLINA

**INTERPRETATION NO. 48**

Opinion of Attorney General

January 5, 1944

SUBJECT: Unemployment Compensation Act; Interpretation of the Phrase – “Left Work Voluntarily Without Good Cause Attributable to the Employer,” as Same Appears in Section 5 (a) of the Unemployment Compensation Laws of North Carolina

Receipt is acknowledged of your letter of January 3, with enclosures, in which you request an interpretation of the phrase “left work voluntarily without good cause attributable to the employer,” this section providing that an individual shall be disqualified for benefits for causes as provided therein including the phrase above quoted.

I have read your letter with a great deal of interest and I have considered very carefully the interpretation which has been placed upon this language appearing in the acts of other states by the authorities recited in the memorandum attached to your letter and those quoted therein.

It is particularly noted that the words “attributable to the employer” were added by the General Assembly of 1943 (see Chapter 377, Session Laws of 1943), and that the words “left work voluntarily without good cause” have been in Section 5(a) continuously since the passage of the original Act by the Special Session of the General Assembly of 1936.

As to this you submit the following question:

“Considering the purpose and intent of the Unemployment Compensation Law should the Commission, in interpreting the word “voluntarily” as applied to separation under Section 5(a) of the Act, inquire into the mental processes, constraining or compulsive forces or objective influences, or freedom or lack of freedom from external compulsion or necessity which led up to claimant’s leaving work; or, on the other hand, should the inquiry of the Commission be limited to the question of whether or not the claimant left his work of his own motion, accord, or intentionally and irrespective of any extraneous forces, constraints, compulsion, or influences which brought about claimant’s exercise of his volition?”

I think we can safely begin with the premise that it was the purpose of the General Assembly, in enacting the Unemployment Compensation Law found in Chapter 1 of the Public Laws, Extra Session, of 1936, to make some provision for those who are able and available for work and who are out of employment through no fault of their own.

Section 2 of the Act provides, in part, that as a guide to the interpretation and application of the Act, the public policy of the State is declared to be as follows:

“Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of the State. Involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the Legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life...”

I think we are fully justified in recognizing rules of statutory construction in seeking to determine the legislative intent to inquire into the purposes for which the law was enacted, and the ends which it seeks to attain, particularly with reference to the use of language which conceivably might have more than one meaning and which is, on that account, a proper object of construction.

It is inconceivable to me that the General Assembly, in enacting this beneficent social legislation intended that a person who had left his or her employment on account of illness, or other causes beyond control, would be considered as having forfeited the right to the benefits of the Act when such person, upon removal of such causes, is able and available for work but remains unemployed because of inability to find employment with his or her employer or in other suitable employment. I, therefore, am of the opinion that we would be justified in interpreting the word “voluntarily” and the phrase of which it is a part in such a way as to not deny the benefits of the Act to those for whom it was clearly intended to help, and this will result in what might generally be said to be a liberal interpretation rather than a narrow one, which apparently has been adopted in some jurisdictions.

In adopting a liberal interpretation, however, I believe that this interpretation should be confined to proper limits in order to give effect to the express intention of the General Assembly. In ascertaining whether or not an employee voluntarily left his employment, I think we would be justified in considering the mental processes, constraining or compulsive forces or objective influences, or the freedom or lack of freedom from external compulsion or necessity which led up to the claimant’s leaving work, but I think that the Commission should in every case be fully satisfied that, where an employee has left the employment, the reasons for so doing were of an

impelling character which, in the opinion of the Commission, afforded ample and complete justification for the severance of his employment. This would exclude all fictitious or feigned reasons or excuses for failure to continue in the work and would comprehend only such causes as operated directly on the employee which made, in the opinion of the Commission, his continuance in the employment impossible, or attended with such circumstances as to make it unreasonably burdensome for him to continue therein.

It seems to me that a cause which only indirectly operated upon the employee should be excluded and that the circumstances should be such as could reasonably be considered to have deprived the employee of freedom of choice in the matter. It is evident that the illness of an employee of such a character and nature as to disable him or her from continuing in the employment would be such a cause as to make it necessary for the employee to discontinue his work as long as this condition existed. On the other hand, I am inclined to the opinion that, except under very unusual circumstances, an illness in the family of an employee would not provide such a cause. If we accept this interpretation of the language of the section, it would necessarily mean that the answers to the various questions which may arise, many of which are instanced in your letter, would have to be determined by the findings of the Commission in the particular cases. Upon proper findings being made in such matters, I am of the opinion that the purpose and spirit of the law would be carried out and a desirable result obtained.

With regard to your second question as to the procedural matter under Section 5(a) and the burden of proof, I would say that, in my opinion, the technical rule as to burden of proof observed in court trials would not be employed. I assume that the Commission would take all of the evidence connected with the matter, whether offered by the employer or the employee, and reach its conclusion based upon whether or not all of the facts so adduced did or did not show that the employee had voluntarily left the work without good cause attributable to the employer, without observing any technical rules of the burden of proof or going forward with the evidence.