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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Case No.: 16-ALJ-22-0380-AP
Appellate Case No. 2017-000669

Patricia Crawford,

Respondent,

v.

South Carolina Department of Employment
and Workforce and Allserv Inc.,

Appellants.

RECEIVED

JUN 13 2017

SC Court of Appeals

FINAL BRIEF OF APPELLANTS

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[REDACTED]

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STATEMENT OF ISSUE ON APPEAL

An employee who voluntarily leaves work, without good cause, is disqualified from receiving unemployment insurance benefits. A resignation letter is not needed to show an employee voluntarily left – she may be charged with voluntarily leaving by action or inaction with unavoidable ramifications. Patricia Crawford threatened to quit, removed her belongings, and did not report to work. Does substantial evidence support the Department of Employment and Workforce's finding that Crawford voluntarily left work?

STATEMENT OF THE CASE

After separating from her employment with Appellant Allserv Inc. (“Allserv”), Respondent Patricia Crawford filed a claim for unemployment insurance (“UI”) benefits with Appellant South Carolina Department of Employment and Workforce (“DEW,” together with Allserv, “Appellants”) on April 22, 2016. (R.pp.58-65.) On June 2, 2016, a DEW claims adjudicator determined Crawford voluntarily left employment without good cause and, consequently, disqualified her from receiving benefits under S.C. Code § 41-35-120(1). (R.p.89.)

Crawford appealed the adjudicator’s determination to DEW’s Appeal Tribunal (“Tribunal”), which held a hearing on Crawford’s claim on July 6, 2016. (R.pp.90-268.) The Tribunal affirmed the determination, finding Crawford disqualified from receiving UI benefits because she voluntarily left employment without good cause. (R.pp.269-70.)

Crawford appealed to DEW’s Appellate Panel (“Panel”). (R.pp.271-73.) On August 27, 2016, the Panel mailed a “Notice of Hearing before the Appellate Panel” to Crawford and Allserv informing the parties of the hearing for September 6, 2016. (R.pp.10-11.) Allserv’s counsel attended the hearing, but Crawford did not appear. On September 8, 2016, the Panel issued Decision No. 2016-P-10234, affirming the Tribunal’s finding and the resulting disqualification. (R.pp.53-57.) On September 27, 2016, the Panel received a “Request for Appeal Reconsideration” from Crawford. (R.pp.13-15.)

On October 6, 2016, Crawford appealed the Panel's decision to the Administrative Law Court ("ALC"), and on February 23, 2017, the ALC issued an Order reversing the Panel's decision. (R.pp.1-5.) DEW timely filed a Notice of Appeal from the ALC's decision on March 14, 2017.

STATEMENT OF FACTS

I. Background

Crawford worked for Allserv as a Corporate Secretary from November 9, 2014, through April 18, 2016. (R.p.110, lines 2-3; R.pp.203, lines 12-17.) Allserv stated in response to Crawford's application for UI benefits that she verbally resigned:

[Crawford] verbally stated on 4/14/2016 that she was going to find another job and that she no longer could work here if other employees were not being disciplined. On 4/17/2016 [Crawford] worked and sent text message to a manager she packed her things. She also sent a text message to her supervisor that she had completed tasks and she would not be in on Monday. Upon arrival on Monday 4/18/2016 [Crawford]'s desk had been cleaned out of all personal effects.

(R.p.71.)

Crawford, on the other hand, denied resigning:

. . . I was told to take a day off to think about whether I wanted to continue working so I did. When I asked to schedule a meeting with owner and VP . . . , I received a text from VP Tanya Calvin which indicated I had resigned which is not true and I have text documentation of this event.

(R.p.8.)

At the hearing, the hearing officer entered into the record Agency Exhibit 1, which included, a two-page statement and text messages submitted by Crawford during fact-finding. (R.p.107, lines 1-30.) Allserv introduced 18 pages of additional

text messages as Employer Exhibit 1. (R.p.167, line 8 – R.p.168, line 14.) Employer also introduced a one-page email from Crawford as Employer Exhibit 2. (R.p.192, line 10 – R.p.195, line 7.)

II. Employer Witness Testimony before the Tribunal

Vice President Tanya Calvin testified for Allserv at the Tribunal hearing. Calvin explained she had a conversation with Crawford at work on Thursday, April 14, 2016, at which time Crawford stated, “I’ve had enough of this, I don’t need this job, this isn’t worth it to me, I’m going to find somewhere else to work.” (R.p. 204, lines 1-15.)

After the April 14th conversation, Crawford worked at least part of the day on Friday, April 15th, Saturday, April 16th, and Sunday, April 17th. Over the weekend, Crawford sent Calvin over twenty (20) texts laced with profanity and expressing dissatisfaction over work matters, to which Calvin responded: “Go spend the day with your family. Quit working.” (R.pp.257-65.)

Calvin testified that on Sunday, April, 17th, she received a text from Crawford stating she would not be in Monday. (R.p.204, lines 1-15.) Specifically, Crawford texted: “All my paperwork is caught up, I’ve filed and will do checks in just a minute after Kris is done with my computer. I will not be in tomorrow.” (R.p. 264.)

The following day (Monday morning), Calvin learned Crawford had cleaned out her desk and removed her personal belongings. (R.p.204, lines 1-15.) Calvin explained that because of this and Crawford’s repeated threats to quit, most recently

on April 14th, she considered Crawford's declaration that she would "not be in tomorrow" to be a resignation:

On Thursday, . . . she had gotten upset about something one of the managers had not done for her, she rant[ed] and raved her hands up in the air as she's done before, stating I've had enough of this, I don't need this job, this isn't worth it to me, I'm going to find somewhere else to work. So, when I came into the office on that Monday, I took that she actually did quit, that she abandoned her job.

(Id.)

III. Crawford's Testimony before the Tribunal

Crawford testified she was "burnt out," her frustration was at its "all time high," she was tired of working weekends, she felt underappreciated, and the workplace "would push any reasonable person out of the door." (R.p.189, lines 4-16; R.p.143, line 195 – R.p.199, line 3.) Text messages show Crawford had previously threatened to quit if she did not get what she wanted:

FYI . . . if I don't get everything I've asked for from the managers . . . I won't be there Monday Tuesday or ever again . . . I have no intention of doing my job half ass and these asswipes will not lazily force me into doing their jobs for them. Hahaha this is no April fools joke.

(R.p.250.)

Crawford also texted with Allserv's business consultant Kris Mitchell during the time period in question. (R.pp. 236-238.) Although Crawford testified Mitchell told her, "You should take Monday off to consider if you can continue working here with what's going on" (R.p.120, line 19 – R.p.121, line 2), the text message shows Mitchell actually texted: "Should take a day away without answering phone and think it through. Make sure it is what you want to do." (R.p.236.) Mitchell is not an

Allserv employee and, according to Calvin, did not have authority to grant leave requests. (R.p.160, lines 1-12; R.p.208, line 22 – R.p.209, line 3.) Crawford texted back that she enjoyed her job but that she “really need[s] to think about whether or not I can learn how to deal with [the work environment].” (R.p.237.) She continued, “. . . Chances are I’ll be back on Tuesday or whenever but I need to make sure my family is in agreement. Some of the bs [sic] has taken a toll on them as well.” (*Id.*)

Despite the above evidence, notably the text reading, “if I don’t get everything I’ve asked for . . . I won’t be there Monday Tuesday or ever again . . . ,” Crawford insisted at the Tribunal hearing that she never said she was quitting or looking for work elsewhere. (R.p.118, lines 16-19; R.p.162, lines 9-11.) According to Crawford, Calvin brought up her own aggravations with the company and she (Crawford) merely concurred with that sentiment. (R.p.118, lines 1-9.)

However, Crawford admitted that, over the weekend, she cleaned out her desk and took home her pictures, pens, and her daughter’s drawing. (R.p.131, line 19 – R.p.132, line 27.) She testified she did this to “declutter” and update her personal photographs. (*Id.*) Yet she revealed in her Notice of Appeal to the ALC that she actually removed belongings “out of frustration” and “to let Allserv know that I had concerns that needed immediate attention.” (R.pp.276-82)²

² Respondents cited to Crawford’s Notice of Appeal to the ALC in their Initial Brief, but inadvertently left it out of the Record on Appeal filed May 24, 2017. Pursuant to Appellate Rule 212(b), Respondents hereby supplement the Record on Appeal with the consent of all counsel of record, as indicated by their signatures to this Brief. *See Exhibit A* attached hereto.

Crawford further testified that on Monday, April 18th, she received electronic notification that Allserv deactivated her network access. (R.p.121, lines 19-25.) She then texted Calvin and the ensuing text message exchange is in the record. (R.pp.234-35; R.pp.265-67.) Notably, though, Calvin texted Crawford the following:

You told me on Thursday that you had enough and you were [quitting] and finding another job. You have said this before but this time I took you seriously when I came in this morning and found you had removed all of your personal things over the weekend. Jeff and I have accepted your resignation.

(R.p.234; R.p.266.)

In response, Crawford texted that Mitchell gave her permission to take “a few days off” and that she could not have resigned Thursday because she worked three more days. (R.pp.234-35; 266.) At the hearing, she testified she also texted Calvin to “question[] what resignation she was referring to because that never happened.” (R.p.118, line 24 – R.p.119, line 2.) But the text messages in the Record do not contain any such message. (R.pp.234-35; R.p.266.)

IV. The Tribunal and Panel Decisions

The Tribunal found Crawford voluntarily left employment without good cause. (R.pp.269-270.) Crawford appealed and the Panel unanimously affirmed the Tribunal’s decision. (R.pp.56-57.) The Panel explained the basis for its decision as follows:

Given [Crawford’s] comments about looking for work elsewhere, her continued complaining about the work environment, and the removal of her personal belongings from her desk, it was not unreasonable for the employer to assume [Crawford] had followed through on her threat to quit her job. Although [Crawford] maintains she was merely taking a day off to regroup, she did not request that day off from someone

who had the authority to grant it, nor did she confirm . . . that she was going to return to work on April 19, 2016. . . . [Crawford] was frustrated with her work environment and with what she perceived as a lack of action from management to resolve the issues which were making her job difficult. Although [Crawford's] dissatisfaction may have been justified, she had been told the issues would be resolved in the near future when the owner returned. As such, [Crawford] has not presented circumstances which would cause a reasonable person to become totally unemployed rather than continue working. Therefore, we find [Crawford] voluntarily quit without good cause

(R.p.57.)

V. The ALC Order

Crawford appealed the Panel's decision to the ALC. The ALC agreed with Crawford's position that substantial evidence did not support the Panel's decision.

(R.p.2.) Specifically, the ALC found that a review of the evidence in the case did not support the Panel's conclusion that Appellant voluntarily quit. (*Id.*) The ALC determined that while it was clear that Crawford was dissatisfied with her position and that her employer was aware she was considering quitting, there was no evidence that Crawford actually quit. (R.p.3). Citing *Samuel v. S.C. Employment Sec. Comm'n.*, 285 S.C. 476, 477, 300 S.E.2d 300, 301 (1985), the ALC determined that the Record was devoid of evidence of an "action or inaction with unavoidable ramifications taken by [Crawford]." (*Id.*) The ALC found that it was Allserv, not Crawford, who took the action that terminated Crawford's employment – namely deactivating her email account. (*Id.*) Accordingly, the ALC reversed the Panel's decision. (R.p.4). This Appeal follows.

ARGUMENT

I. **Substantial Evidence Supports DEW's Decision that Crawford Voluntarily Left Work, Without Good Cause.**

The ALC re-weighted the evidence in this case, overturned the Panel's holding that Crawford voluntarily left employment, and replaced it with a new factual finding that Allserv ended the employment relationship by deactivating Crawford's network access. However, the "[t]he substantial evidence rule does not allow judicial fact-finding, or the substitution of judicial judgment for agency judgment." *Todd's Ice Cream, Inc. v. S.C. Emp. Sec. Comm'n*, 281 S.C. 254, 258, 315 S.E.2d 373, 375 (Ct. App. 1984). Thus, because there is substantial evidence to support DEW's finding, this Court should reverse.

A. **Standard of Review**

SCDEW is an agency governed by the Administrative Procedures Act (APA). *See Gibson v. Florence Country Club*, 282 S.C. 384, 386, 318 S.E.2d 365, 367 (1984) (finding SCDEW's predecessor, the Employment Security Commission, subject to the APA). Under the APA, a reviewing court:

[M]ay not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

This standard of review is commonly referred to as the “substantial evidence” rule:

“Substantial evidence” is something less than the weight of the evidence; it is evidence which . . . would allow reasonable minds to reach the conclusion that the administrative agency reached in order to justify its action.

Todd's Ice Cream, Inc., 281 S.C. at 258, 315 S.E.2d at 375. The possibility of drawing different conclusions from the evidence does not mean the agency's conclusion is unsupported by substantial evidence. *Waters v. S.C. Land Resources Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996) (stating the party challenging an agency action bears the burden “to prove convincingly that the agency's decision is unsupported by the evidence.”).

B. Crawford's statements and actions show she resigned.

S.C. Code Ann. § 41-35-120(1) requires disqualification from benefits until the employee has secured employment and earned at least eight times the weekly benefit amount when DEW finds that an employee left work voluntarily, without good cause. A resignation letter is not a prerequisite for a voluntary quit finding because “[a]n employee may be charged with quitting a job **by action or inaction with unavoidable ramifications.**” *Samuel v. S.C. Emp. Sec. Comm'n*, 285 S.C. 476, 477, 330 S.E.2d 300, 301 (1985) (upholding a voluntary quit finding where a claimant did not respond to a letter from her employer stating claimant would be terminated if she did

not apply for a leave of absence) (emphasis added). “To constitute good cause, the circumstances which lead an employee to leave the job must be such as would cause a reasonable person to leave.” 76 Am. Jur. 2d *Unemployment Compensation* § 102.

Whether an employee voluntarily quit employment or was discharged is a factual issue to be determined by DEW. S.C. Code Ann. § 41-35-120(1) (stating “an insured worker is ineligible for benefits . . . [i]f [DEW] finds he left voluntarily, without good cause”). Thus, the Legislature did not intend for reviewing courts to make new factual findings as to whether a claimant voluntarily left or was discharged because “this right is patently given to [DEW], whose duty it is to determine by the testimony and the evidence in each case whether certain facts existed.” *Johnson v. Pratt*, 200 S.C. 315, 20 S.E. 2d 865, 871 (1942) (analyzing similar language in subsection (5) of Section 41-35-120 concerning labor disputes).

This is a well-established principle equally expressed in many jurisdictions. *See, e.g., Matter of Baker*, 147 A.D. 2d 790, 781 (N.Y. App. Div. 1989) (“Clearly, whether a claimant has voluntarily left employment without good cause is a question of fact to be resolved by the Board, and its determination, if supported by substantial evidence, will not be disturbed.”) (internal citations and quotations omitted); *Mississippi Emp’t Sec. Comm’n v. Fortenberry*, 193 So.2d 142, 143 (Miss. 1966) (noting factual determinations in a voluntary quit case are “conclusive upon the [court] on review”). Indeed, the ALC recently rejected a UI claimant’s argument that her returning to the workplace showed the Panel erred in finding she voluntarily quit. *Toney v. South Carolina Dep’t of Emp’t and Workforce and McLeod Reg’l Med. Ct of the Pee*

Dee, Inc., Docket No. 15-ALJ-22-0498-AP (Mar. 23, 2016). In that case, Chief Administrative Law Judge Anderson reiterated that drawing fact-based inferences such as whether an employee intended to resign or not is “the province of the Panel, as a finder of fact”³

Here, the Panel applied Section 41-35-120(1) and unanimously concluded that Crawford threatened to resign if other employees were not disciplined, then later removed her personal belongings from the workplace. In the Panel’s judgment, these facts demonstrated Crawford left work voluntarily without good cause, notwithstanding the fact that she now claims she did not intend to resign. There is ample evidence in the record to support that conclusion.

First, the Record on Appeal contains evidence that Crawford threatened to quit multiple times and issued ultimatums to Allserv. Calvin testified Crawford said, “I don’t need this job, this isn’t worth it to me, I’m going to find somewhere else to work.” (R.p.204, lines 2-15.) Crawford texted Calvin: “. . . if I don’t get everything I’ve asked for . . . I won’t be there Monday Tuesday or ever again” (R.p.250.) Although Crawford denied making certain statements, the Panel was, of course, within its discretion to credit Calvin over Crawford.⁴

³ Though not binding precedent, this case confirms the ALC has, in a case involving comparable facts, affirmed the principle that the Panel has discretion to weigh facts and determine whether they meet the voluntary quit definition set forth in Section 41-35-120(1) and informed by *Samuel, supra*.

⁴ Even in reversing the Panel’s voluntary quit finding, the ALC did not credit Crawford’s claim that she never threatened to seek work elsewhere: “It is also clear that [Crawford] made her concerns clear to [Allserv] and that [Allserv] was aware that she was considering quitting.” (R.p.3.) If nothing else, it is beyond dispute Crawford told Mitchell, a consultant working for Allserv, she wanted to resign.

Second, after working over the weekend without being asked to do so, Crawford texted Calvin that she “won’t be in Monday” and then cleaned out her desk. Crawford claimed at the hearing that she did this to “update” the photographs as a part of her “spring cleaning,” presumably to suggest the removal of her belongings was unrelated to her conversation with Calvin that Thursday. (ALC R. p. 80.) But, in her appeal to this Court, Crawford concedes she removed her belongings out of frustration to send a message to Allserv: “I did remove some but not all of my personal belongings from the office out of frustration. It was a measure taken to let Allserv know that I had concerns that needed immediate attention.” (R.p.276.) Crawford testified that this “measure” led her to conclude Crawford had finally followed through on her threats to quit, which, of course, is a logical conclusion to draw. (R.p.204, lines 1-15) (Calvin saying she felt Crawford “actually did quit, that she abandoned her job”).

Third, Crawford’s communications after not showing up for work Monday morning are further evidence of a voluntary quit. Crawford texted Calvin saying, “All I wanted was a thank you.” (R.p.206, lines 13-21; R.p.241.) Contrary to her testimony before the Tribunal, she did not deny saying she was quitting and looking for work elsewhere. Similarly, Crawford later emailed Calvin saying she “could no longer handle it” and was pushed “over the edge,” but again did not deny saying she was quitting and looking for work elsewhere. (R.p.268.)

Otherwise, Mitchell would have no reason to text back, “Make sure it is what you want to do.” (R.p.236.) This evidence bolsters the reliability of Calvin’s testimony that, on April 14th, Crawford said to her, “I’m going to find somewhere else to work.” (R.p.204, lines 1-15.)

In sum, (1) Crawford's threats to resign, (2) the clearing of her desk in order to "send a message," (3) her terse announcement that she "won't be in Monday," and (4) her communications to Calvin upon learning Allserv accepted her resignation all support the Panel's finding that Crawford voluntarily left employment without good cause.

C. The ALC Exceeded Its Authority in Overturning a Factual Finding of the Panel that was Supported by Substantial Evidence.

Despite the above evidence, the ALC found "there is no evidence in the record of an action or inaction with unavoidable ramifications taken by [Crawford]." (R.p.3) (quoting *Samuel*, 285 S.C. at 477, 330 S.E.2d at 301). The Court excused all of Crawford's behavior calculated to have Allserv believe she quit and found "Allserv took the action that terminated [Crawford]'s employment by deactivating her email account." For that reason, the ALC reasoned, DEW erred in deciding Crawford voluntarily left work, without good cause.

Admittedly, a reasonable person could have found the employment relationship did not end until Crawford's network access was deactivated. But it is equally plausible to conclude, as the Panel did, Crawford's actions caused the employment separation and the deactivation of network access does not indicate which party initiated the employment separation. Since the APA requires courts to defer to administrative entities "even though reasonable men might draw two

inconsistent conclusions from the evidence presented,”⁵ the ALC exceeded its authority in reversing the Panel’s decision on this basis.

CONCLUSION

In a recent ALC case concerning whether an employee voluntarily quit or was discharged, Chief Administrative Law Judge Anderson, put it well:

“ . . . [W]ords have consequences. [The employer] should not be expected to read [the employee’s] mind, if she was not serious about the statements she made. In light of [the employee]’s conduct surrounding her statements, the Panel properly found that [the employer’s] interpretation of her statements as a verbal resignation was reasonable.”

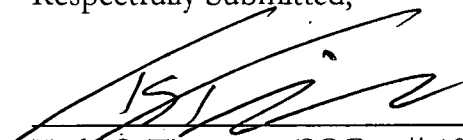
Here, the Panel reasonably concluded Crawford’s actions in clearing her desk and texting her supervisor that she would not be in, combined with prior statements about quitting and looking for work elsewhere, amount to leaving work voluntarily, without good cause, under S.C. Code Ann. § 41-35-120(1).

Accordingly, Appellants respectfully request this Court reverse the ALC’s order and reinstate Panel Decision No. 2016-P-10234 disqualifying Crawford for unemployment benefits for having left work voluntarily, without good cause.

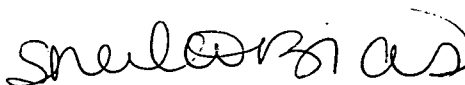
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⁵ See *Todd’s Ice Cream*, 281 S.C. at 259, 315 S.E. 2d at 376 (applying S.C. Code Ann. § 1-23-380).

Respectfully Submitted,



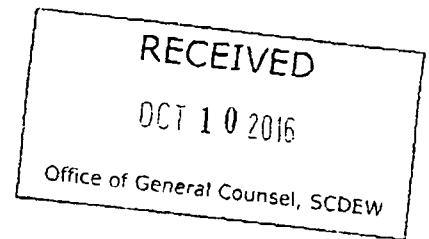
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June 13, 2017

EXHIBIT A



Patricia A Crawford
188 Kerry Gibbons Drive
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(803) 312-5422

GENERAL STATEMENT

October 1, 2016

I, Patricia Crawford, am appealing the outcome regarding the appellate panel decision given by SC Department of Employment and Workforce.

On April 18th, 2016, I was made aware that my email access had been taken away post discussions with management regarding several ongoing issues and the need for them to be handled. I was given permission by management to take a day off to consider whether I wanted to continue my employment until various situations could be dealt with. I told Allserv that I loved my job and wanted to continue my employment but would also like my concerns addressed as Allserv's policies state they should be; and how all employee issues have been handled during my length of employment with Allserv. To my knowledge, I was to take April 18th, 2016 as a personal day and return April 19th, 2016. Prior to these discussions with management, I did remove some but *not all* of my personal belongings from the office out of frustration. It was a measure taken to let Allserv know that I had concerns that needed immediate attention. Although downplayed by Allserv as to what those issues were; many were of a legal nature. This includes not having a written Affirmative Action Plan in place as required by the federal government within 3 months of obtaining a federal contract; monetary reimbursements for spouse travel when not related to work, etc.

In addition; I provided copies of emails and texts to SCDEW that showed my intent of returning to work post removal of some of my items and my discussions with management, vendors and text correspondence with Allserv's Vice President, Tanya Calvin.

When I contacted Tanya Calvin, Vice President, as to why my email access was taken away; she indicated that she and Jeffrey Calvin (president/owner) accepted my resignation. When I questioned when this supposed resignation took place, she claimed that we had a conversation on Thursday, April 14th, 2016 where I indicated I was looking for another job. Clearly this conversation never took place as I was at work on the 15th, 16th, and 17th of April. A disgruntled employee isn't going work through the weekend if she supposedly resigned. Allserv agrees that I did work through the weekend and didn't dispute this.

I feel this was a wrongful termination. I never resigned; there is no resignation letter and arrangements were made post taking personal items home with management for me to have April 18th, 2016 off as a personal day.

A handwritten signature in black ink, appearing to be "Patricia Crawford".

Patricia Crawford

**SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina**

PATRICIA A. CRAWFORD)
188 KERRY GIBBONS DRIVE)
CHAPIN, SC 29036)
CLAIMANT SSN: XXX-XX-3527)

APPELLATE PANEL
DECISION

ALLSERV, INC.)
C/O EMPLOYERS EDGE)
PO BOX 351567)
WESTMINSTER, CO 80035)

Appellant: Claimant

The claimant appealed Appeal Tribunal Decision 2016-A-08344 to the Appellate Panel. The Tribunal indefinitely disqualified the claimant from benefits upon finding she voluntarily quit without good cause. This decision affirmed the claims adjudicator's determination.

The Appellate Panel notified the parties of its hearing to consider the appeal.

DECISION

Appeal Tribunal Decision 2016-A-08344 is affirmed. The claimant is indefinitely disqualified from benefits effective April 17, 2016, upon finding she voluntarily quit without good cause attributable to her employment.

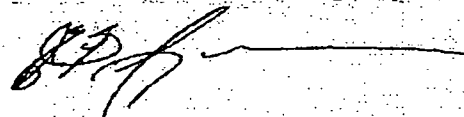
The claimant worked from November 9, 2014, to April 18, 2016, most recently as a corporate secretary. On April 14, 2016, the claimant became frustrated and upset because employees were not providing her with the information she needed to do her job in a timely manner. She complained to the company vice president, who informed the claimant the matter would be addressed when the owner of the company returned to town in a few weeks. The claimant continued to vent her frustrations, telling the vice president she had had enough and would start looking for work elsewhere. The claimant returned to work on April 15, 2016. On Saturday, April 16, 2016, she continued to express her displeasure with her colleagues in a series of text messages to the vice-president. Her main complaint was that she was working on the weekend and not spending time with her family. The vice-president told the claimant to stop working and go home, which the claimant eventually did. The claimant also complained on that day about the situation to a consultant the employer was using. The consultant told the claimant she should take a day or two to think things through before taking any action. The claimant agreed, telling the consultant she needed to think about whether or not she could learn to deal with the situation at work, since she could not think things would change. She told the consultant chances were she would be back "on Tuesday whenever," but she needed to make sure her family was in agreement with any decision she made. The claimant worked again the next day, Sunday, April 17, 2016. Upon completing her work that day she sent the vice-president a text message stating she would not be in on Monday, April 18, 2016. The vice-president acknowledged that text later in the evening. On the morning of April 18, 2016, the claimant

discovered her work email account had been disabled. She tried to contact the consultant, but was unsuccessful. The vice-president then sent the claimant a text message explaining the employer assumed the claimant had quit her job based upon the statements she made on April 14, 2016, her dissatisfaction with work, and the fact all her personal belongings had been removed from her desk. The claimant acknowledges removing her personal belongings on April 16, 2016, but maintains she did so only to clean up her desk and to replace her families' pictures with more recently-taken photographs. The claimant denies quitting her job.

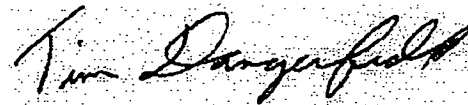
S.C. Code Ann. § 41-35-120(1) requires an indefinite disqualification from benefits when the Department finds the claimant has voluntarily quit without good cause attributable to the employment. The disqualification continues until the claimant returns to work and earns eight times the weekly benefit amount of the claim in covered employment. "Good cause" refers to a material, substantial change in the conditions of employment, or other circumstances directly attributable to the employment, which would cause a reasonable person to become totally unemployed rather than continue working.

Despite her assertions to the contrary, the record establishes the claimant voluntarily quit her employment. Given the claimant's comments about looking for work elsewhere, her continued complaining about the work environment, and the removal of her personal belongings from her desk, it was not unreasonable for the employer to assume the claimant had followed through on her threat to quit her job. Although the claimant maintains she was merely taking a day off to regroup, she did not request that day off from someone who had the authority to grant it, nor did she confirm with any degree of certainty that she was going to return to work on April 19, 2016. The evidence clearly shows the claimant was frustrated with her work environment and with what she perceived as a lack of action from management to resolve the issues which were making her job difficult. Although the claimant's dissatisfaction may have been justified, she had been told the issues would be resolved in the near future when the owner returned. As such, the claimant has not presented circumstances which would cause a reasonable person to become totally unemployed rather than continue working. Therefore, we find the claimant voluntarily quit without good cause attributable to the employment. The Appeal Tribunal decision is affirmed.

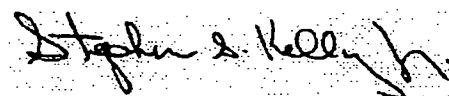
**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**



E.B. Ayers



Tim Dangerfield



Stephen S. Kelly, Jr.

Hearing Date : _____

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
(SCDEW)
Columbia, South Carolina

NOTICE OF MAILING OF APPELLATE PANEL DECISION

Attached is a copy of the final agency decision of SCDEW in this case. Any further appeal is to the South Carolina Administrative Law Court. To obtain judicial review of this decision, you must comply with the requirements of S.C. Code Ann. § 41-35-750 and the Rules of Procedure of the Administrative Law Court. The Court may require a filing fee.

The law requires that a Petition for Judicial Review must be filed with the Court and served on all parties and SCDEW within thirty (30) days from the date of mailing of the agency's final decision (see the mailing date above).

The address of the Administrative Law Court is:

**S.C. Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201**

Service of the Petition on SCDEW must be addressed and mailed to:

**Office of General Counsel
S.C. Department of Employment and Workforce
Post Office Box 8597
Columbia, SC 29202**

SCDEW cannot advise a party on any legal matter. For legal advice or assistance in filing an appeal to the Administrative Law Court, you should consult an attorney licensed to practice in South Carolina.

Form App-115
Rev.8/12

Date Mailed: 9/8/2016

**SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina**

PATRICIA A. CRAWFORD)
188 KERRY GIBBONS DRIVE)
CHAPIN, SC 29036)
CLAIMANT SSN: XXX-XX-3527)

**CORRECTED
APPELLATE PANEL
DECISION**

ALLSERV, INC.)
C/O EMPLOYERS EDGE)
PO BOX 351567)
WESTMINSTER, CO 80035)

Appellant: Claimant This decision corrected to include hearing date.

The claimant appealed Appeal Tribunal Decision 2016-A-08344 to the Appellate Panel. The Tribunal indefinitely disqualified the claimant from benefits upon finding she voluntarily quit without good cause. This decision affirmed the claims adjudicator's determination.

The Appellate Panel notified the parties of its hearing to consider the appeal.

DECISION

Appeal Tribunal Decision 2016-A-08344 is affirmed. The claimant is indefinitely disqualified from benefits effective April 17, 2016, upon finding she voluntarily quit without good cause attributable to the employment.


The claimant worked from November 9, 2014, to April 18, 2016, most recently as a corporate secretary. On April 14, 2016, the claimant became frustrated and upset because employees were not providing her with the information she needed to do her job in a timely manner. She complained to the company vice-president, who informed the claimant the matter would be addressed when the owner of the company returned to town in a few weeks. The claimant continued to vent her frustrations, telling the vice-president she had had enough and would start looking for work elsewhere. The claimant returned to work on April 15, 2016. On Saturday, April 16, 2016, she continued to express her displeasure with her colleagues in a series of text messages to the vice-president. Her main complaint was that she was working on the weekend and not spending time with her family. The vice-president told the claimant to stop working and go home, which the claimant eventually did. The claimant also complained on that day about the situation to a consultant the employer was using. The consultant told the claimant she should take a day or two to think things through before taking any action. The claimant agreed, telling the consultant she needed to think about whether or not she could learn to deal with the situation at work, since she did not think things would change. She told the consultant chances were she would be back "on Tuesday or whenever," but she needed to make sure her family was in agreement with any decision she made. The claimant worked again the next day, Sunday, April 17, 2016. Upon completing her work that day she sent the vice-president a text message stating she would not be in on Monday, April 18, 2016. The vice-president acknowledged that text later in the evening. On the morning of April 18, 2016, the claimant

discovered her work email account had been disabled. She tried to contact the consultant, but was unsuccessful. The vice-president then sent the claimant a text message explaining the employer assumed the claimant had quit her job based upon the statements she made on April 14, 2016, her dissatisfaction at work, and the fact all her personal belongings had been removed from her desk. The claimant acknowledges removing her personal belongings on April 16, 2016, but maintains she did so only to clean up her desk and to replace her families' pictures with more recently-taken photographs. The claimant denies quitting her job.

S.C. Code Ann. § 41-35-120(1) requires an indefinite disqualification from benefits when the Department finds the claimant has voluntarily quit without good cause attributable to the employment. The disqualification continues until the claimant returns to work and earns eight times the weekly benefit amount of the claim in covered employment. "Good cause" refers to a material, substantial change in the conditions of employment, or other circumstances directly attributable to the employment, which would cause a reasonable person to become totally unemployed rather than continue working.

Despite her assertions to the contrary, the record establishes the claimant voluntarily quit her employment. Given the claimant's comments about looking for work elsewhere, her continued complaining about the work environment, and the removal of her personal belongings from her desk, it was not unreasonable for the employer to assume the claimant had followed through on her threat to quit her job. Although the claimant maintains she was merely taking a day off to regroup, she did not request that day off from someone who had the authority to grant it, nor did she confirm with any degree of certainty that she was going to return to work on April 19, 2016. The evidence clearly shows the claimant was frustrated with her work environment and with what she perceived as a lack of action from management to resolve the issues which were making her job difficult. Although the claimant's dissatisfaction may have been justified, she had been told the issues would be resolved in the near future when the owner returned. As such, the claimant has not presented circumstances which would cause a reasonable person to become totally unemployed rather than continue working. Therefore, we find the claimant voluntarily quit without good cause attributable to the employment. The Appeal Tribunal decision is affirmed.

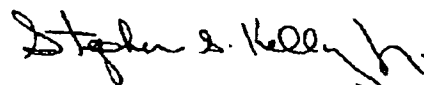
**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**



E.B. Ayers



Tim Dangertfield



Stephen S. Kelly, Jr.

Hearing Date: 9-6-16

Mailed Date: 9-8-16

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Patricia Crawford _____)
)
Appellant/Petitioner,)
)
vs.)
)
Allserv, Inc. _____)
)
Respondent.)
)
_____)

Docket No. ___-ALJ-___-___-___

CERTIFICATE OF SERVICE


I hereby certify that I am the Appellant (Appellant/Petitioner/Respondent) in the above-captioned matter and that on the sixth day of October, 2016, in Columbia (city), South Carolina, I served a copy of the forgoing Notice of Appeal & Certificate of Service (type of document) on the following person(s) by depositing the same in the United States Mail, postage paid, and addressed as follows:

Allserv, Inc. C/O Employers Edge
Name
PO Box 351567
Address
Westminster, CO 80035
City/State/Zip

Reyburn W Lominack, III
Name Fisher & Phillips, LLP
1320 Main Street, Ste 750
Address
Columbia, SC 29201
City/State/Zip

Office of General Counsel
South Carolina Department of Employment and Workforce
Name
Post Office Box 8597
Address
Columbia, SC 29202
City/State/Zip

SC Administrative Law Court
Edgar A. Brown Building
Name
1205 Pendleton Street, Ste 224
Address
Columbia, SC 29201
City/State/Zip

Patricia A Crawford
(Print Name)

(Signature)

188 Kerry Gibbons Drive
(Street)
Chapin, SC 29036
(City, State, Zip Code)