

South Carolina
Department of Employment and Workforce



2593989

Office of Appellate Panel

CHRIS R KLEIN)
413 DUVALL ST)
EASLEY SC 29640)
Claimant SSN: XXX-XX-4219)
Claimant ID: 4803399)



APPELLATE PANEL
DECISION

PRIORITY ONE SECURITY INC)
PO BOX 36)
MAULDIN SC 29662-0036)

RECEIVED
NOV 19 2018
SC Court of Appeals

Appellant: CHRIS R KLEIN

Appeal Number: 18-HA-001414

Appellant: Claimant

The Claimant filed for unemployment benefits on June 13, 2018. The claims adjudicator's determination mailed July 2, 2018, held the Claimant disqualified from benefits upon finding he voluntarily left employment without good cause. The Claimant appealed to the Appeal Tribunal. After an evidentiary hearing, the Tribunal affirmed the determination. The Claimant appealed the Appeal Tribunal decision on August 18, 2018 to the Appellate Panel.

The Appellate Panel notified the parties of its hearing to consider the appeal. We affirm the Appeal Tribunal decision. The Claimant is indefinitely disqualified from benefits effective June 10, 2018, upon finding he voluntarily left work without good cause attributable to the employment.

BACKGROUND

The Claimant worked from January 2015, to June 12, 2018, most recently as a billing clerk. He resigned his position by email on June 13, 2018. During his time of employment, the Claimant experienced numerous health issues which he attributes to toxic mold. The Claimant previously worked in the Greenville office which had a leak in 2015. He asserts the Employer did not properly test for mold or remediate the office environment. The Claimant moved to the Anderson office in September 2017. On or about February 28, 2018, he began working with a coworker who had experienced a roof leak in her home. The Claimant maintains the coworker smelled and had mold in her entire wardrobe. He spoke with the coworker about the issue, and after the third conversation with the Claimant, the coworker complained to the general manager. The

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general manager told the Claimant he was not to talk to the coworker about this problem again. Around April 2018, the coworker moved to an upstairs office, and the Claimant was moved into the coworker's office. He maintains this move and the smell of other coworkers amplified his symptoms, and he submitted his resignation in order to maintain his health. He acknowledges he did not request a transfer to a different office. The Claimant's supervisor asserts the Claimant never told her about his problems. She maintains he stated he did not want to work in the coworker's former office because it was too far away from another employee he was training.



The Claimant submitted a laboratory report from 2016 which noted some mold spores in the Employer's Greenville office, a 2016 prescription for a topical cream, and photographs which he asserts show his adverse reactions to the toxic mold. He maintains his doctor did not connect his issues to the office environment because she did not have enough training and experience to make the connection.

FINDINGS

S.C. Code Ann. § 41-35-120(1) requires an indefinite disqualification from benefits when the Department finds the Claimant left work voluntarily without good cause. 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.


S.C. Code Ann. § 41-35-125(B) provides that, notwithstanding Section 41-35-120, a claimant is eligible for benefits if a separation from work occurs due to the illness or disability of the claimant. For purposes of this section, the illness or disability must be verifiable and must necessitate care for a period of time longer than the employer is willing to grant paid or unpaid leave. The Department must find that it was medically necessary for the claimant to stop working or change occupations.

The record shows the Claimant decided his work environment was detrimental to his health. We find the Claimant's reasons for leaving were personal and not attributable to the employment. Although the Claimant submitted some documentation about his health issues, the Claimant's doctor did not link his issues to toxic mold or to his work environment, and the Claimant has no evidence that it was medically necessary for him to stop working. Further, the Claimant moved in 2017 from the Greenville office, which he asserts was the primary cause of his issues. We find no evidence to support his assertion that the moldy smells of his coworkers in 2018 caused his health issues. The Claimant has not presented sufficient evidence of circumstances directly attributable to the employment which would cause a reasonable person to become totally unemployed rather than continue working. Therefore, we find the Claimant voluntarily left work without good cause attributable to the employment.

no evidence possible, just recurrence of a condition already diagnosed.

symptoms ceased when upon resignation

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In his appeal to the Appellate Panel, the Claimant asserts he did not have enough time to apply for a subpoena for the general manager. He also contends the Appeal Tribunal decision is based on multiple errors and is arbitrary and unreasonable, and he requested to submit additional evidence pertaining to his separation. Although the Claimant did not submit a request to the Department for a subpoena for the general manager, the hearing officer contacted the general manager by telephone at the beginning of the hearing. The general manager declined to participate in the hearing, but the Claimant was given ample opportunity to testify about what the general manager would have said. Upon careful review of the record, we find the hearing officer allowed the Claimant a full and fair opportunity to present his case, and conducted the hearing with impartiality. We further find the hearing officer appropriately questioned the Claimant on the specific details of his separation and did not err in the administration of the case. As a board of review, the Appellate Panel generally is confined to the record developed by the Appeal Tribunal and does not consider additional information which was not previously presented in the evidentiary hearing before the Tribunal.

DECISION

The Appeal Tribunal decision mailed August 14, 2018, is affirmed. The Claimant is indefinitely disqualified from benefits effective June 10, 2018, upon finding he voluntarily left work without good cause attributable to the employment.

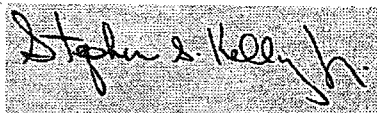
**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE
APPELLATE PANEL**



E.B. AYERS, Concur



TIM DANGERFIELD



STEPHEN S. KELLY, JR.

Date Mailed: 10/31/2018