

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-5135
Issue No: 3019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 15, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Kalamazoo, Michigan on January 15, 2009.

ISSUE

Whether the Department properly terminated the Claimant's FAP benefit for voluntarily resigning his employment without good cause.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was a FAP recipient.
2. On October 7, 2008, Claimant notified the Department that he was no longer employed.
3. On October 7, 2008, the Department sent a Verification of Employment, DHS-38, to Claimant's former employer. The employer returned the document on [REDACTED]

indicating that [REDACTED] called in and quit on [REDACTED] – work was still available for him. (Exhibit 2)

4. On October 23, 2008, Claimant responded to the Department’s request for information. Claimant stated that he “Quit because did not like the work that was assign to me like cleaning out small crawl spaces, did not agree with my back and among other things just was not happy with that type of work.” (Exhibit 3)

5. The Department determined that Claimant did not have good cause for quitting his job and, as a result, disqualified him from FAP benefits.

6. On September 22, 2008, the Department received the Claimant’s Request for Hearing protesting the cancellation of his FAP benefits. Claimant stated in his appeal “I had quit my job because I am making a career change into computers. The work that I was doing really did not agree with my back work such as cleaning small crawl spaces which takes a lot of binding and lifting heavy material. I can’t continue to work a job that’s hurting me so I hope that you can understand.”

7. Claimant testified that he has had back problems since the [REDACTED] and was diagnosed with a ruptured disc in [REDACTED]. He further testified that his job duties hurt his back and he also did not like that type of work.

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp (“FS”) program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (“CFR”). The Department of Human Services (“DHS”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental

policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

Applicants or recipients of Food Assistance Program (FAP) must accept and maintain employment. There are consequences for a client who refuses to accept or maintain employment without good cause. PEM 233b, p. 1. Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive Food Assistance Program Benefits. PEM 233B, p. 3 Non-deferred adults who were working are disqualified if the individual voluntarily quit a job of 30 hours or more per week without good cause or voluntarily reduced hours of employment below 30 hours per week without good cause or was fired without good cause from a job for misconduct. PEM 233B, p. 3. Misconduct sufficient to warrant firing includes any action by a worker that is harmful to the interest of the employer, and is done intentionally or in disregard of the employer’s interest or is due to gross negligence. *Id.* Good cause is a valid reason for failing to participate in employment and/or self-related activities or refusing suitable employment. Good cause includes the following: deferral, meets participation requirements, wage under minimum, client unfit, health or safety risk, illness or injury, religion, net income loss, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, comparable work available, education or training, long commute, unreasonable conditions, forced move, retirement, unkept promise of work, union involvement, strike or lockout and work not being familiar. The Department is required to investigate and determine good cause before the imposition of disqualification. Claimant must show that he is physically or medically unfit for the job by medical evidence or other reliable information or that the degree of risk to health or safety is unreasonable. PEM 233b, p. 6-7.

In the instant case, there is no question that Claimant quit his job. Claimant did not present any medical evidence regarding his back condition. In addition, his testimony did not satisfy the reliability test. Claimant may have experienced some back discomfort from certain job duties, but he never went to the employer to see if he could forego the activities that hurt his back. Also, it was quite clear from his response to the department, his hearing request and his testimony that he did not like the job and that was a factor, if not the factor, in his decision to leave it.

With the above said, I find that the Department established that it acted in accordance with Department policy when it terminated the Claimant's FAP benefits. Accordingly, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department properly terminated the Claimant's FAP benefits.

Accordingly, it is Ordered:

The Department's FAP determination is AFFIRMED.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 5, 2009

Date Mailed: February 19, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

SMB

cc:

