

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Dominic V. Geraci, III, :
 : No. 1531 C.D. 2014
 Petitioner : Submitted: December 26, 2014
 :
 v. :
 :
 Unemployment Compensation :
 Board of Review, :
 :
 Respondent :

BEFORE: HONORABLE RENÉE COHN JUBELIRER, Judge
 HONORABLE P. KEVIN BROBSON, Judge
 HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
 BY SENIOR JUDGE FRIEDMAN

FILED: March 20, 2015

Dominic V. Geraci, III (Claimant) petitions for review, *pro se*, of the July 3, 2014, order of the Unemployment Compensation Board of Review (UCBR) that affirmed the decision of a referee to deny Claimant unemployment compensation (UC) benefits under section 402(b) of the Unemployment Compensation Law (Law).¹ We affirm.

¹ Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. §802(b). Under section 402(b) of the Law, a claimant is ineligible for compensation for any week in which his unemployment is due to voluntarily leaving work without cause of a necessitous and compelling nature.

Claimant worked full-time from March 3, 2008, until March 1, 2014, as a field technician for Tube-Mac Industries, Inc. (Employer). (Findings of Fact, No. 1.) On January 20, 2014, Claimant submitted his resignation to Employer because Claimant was accepted into a training program with Steamfitters Local 449 (Steamfitters). (*Id.*, Nos. 2-3.) Claimant's last day of work for Employer was March 1, 2014. (*Id.*, No. 4.) Claimant quit his employment to begin his training with Steamfitters. (*Id.*) Claimant had not received a firm offer of employment from Steamfitters. (*Id.*, No. 5.)

Claimant applied for UC benefits on March 2, 2014, with the local service center, seeking UC benefits for the time he was training with the Steamfitters for his new position. The training program lasted 17 weeks, from March 3, 2014, through June 27, 2014. The local service center denied UC benefits pursuant to section 402(b) of the Law. Claimant appealed this determination to a referee. After a hearing on April 11, 2014, the referee affirmed the local service center's denial of UC benefits.

Claimant appealed to the UCBR. On July 7, 2014, the UCBR affirmed the referee's decision, finding Claimant ineligible for UC benefits under section 402(b) of the Law because Claimant did not have a firm offer of employment from Steamfitters. Claimant petitioned this court for review.²

² Our review is limited to determining whether constitutional rights were violated, whether an error of law was committed, or whether the findings of fact were unsupported by substantial evidence. Section 704 of the Administrative Agency Law, 2 Pa. C.S. §704.

Before this court, Claimant argues that the UCBR erred in concluding that he lacked a necessitous and compelling cause to quit his employment with Employer. We disagree.

A voluntary quit is not an absolute bar to the recovery of UC benefits. *See* 43 P.S. §802(b). Rather, a claimant seeking UC benefits after a voluntary quit has the burden of proving a necessitous and compelling cause for quitting. *Id.* To show a necessitous and compelling cause, the claimant must establish that: ““(1) circumstances existed [that] produced real and substantial pressure to terminate employment; (2) such circumstances would compel a reasonable person to act in the same manner; (3) the claimant acted with ordinary common sense; and (4) the claimant made a reasonable effort to preserve [his] employment.”” *Solar Innovations, Inc. v. Unemployment Compensation Board of Review*, 38 A.3d 1051, 1056 (Pa. Cmwlth. 2012) (citation omitted).

Here, Claimant contends that he quit his job with Employer to further his career as a steamfitter and thus had a necessary and compelling cause for quitting.³ The record reflects that Claimant submitted his resignation because he was accepted into Steamfitter’s training program. As a steamfitter, Claimant would travel only on a limited basis, receive a pension, receive an increase in his overall compensation package, and be able to take advantage of various educational opportunities in the field.

³ Claimant states that he left Employer because he worked out of town 75% of the time, was unable to continue his education, and, if Claimant had limited his travel time, Employer would have significantly reduced his wages.

Claimant's decision to quit his employment with Employer to better himself and provide a better future for his family is admirable. An increase in job skills, knowledge, pay, and a pension may, as a matter of fact, constitute a necessitous and compelling reason to quit on a personal level. However, in order to receive UC benefits, Claimant's quit must be for a necessitous and compelling cause as a matter of law.

“The legislature has declared that unemployment reserves are ‘to be used for the benefit of persons unemployed through no fault of their own.’ Section 3 of the Law, 43 P.S. §752.” *Empire Intimates v. Unemployment Compensation Board of Review*, 655 A.2d 662, 665 (Pa. Cmwlth. 1995). Here, Claimant chose one job over another. Additionally, Claimant's temporary reduction in income derived solely from a personal decision to pursue the Steamfitters job.

This court has consistently held that a firm offer of employment and its acceptance constitutes a necessitous and compelling cause for quitting. *Solar Innovations*, 38 A.3d at 1056. “‘The offer of employment . . . must be definite’ . . . and ‘the claimant must act prudently with regard to his employer.’” *Id.* (citations omitted). However, we have also “consistently held that the mere possibility of obtaining another job, without a firm offer of employment, is insufficient to establish that employment was terminated for good cause.” *Fernacz v. Unemployment Compensation Board of Review*, 545 A.2d 995, 997 (Pa. Cmwlth. 1988).

Moreover, although Claimant argued that Steamfitters' offer was a firm offer, Claimant admitted that as a condition of employment with Steamfitters, he had to attend a welding certification class. Following completion of the class, Claimant would officially begin his employment with Steamfitters on June 30, 2014. Claimant presented a letter from Steamfitters that outlined the requirements of the class and his start date:

1. You must attend a **mandatory** Apprentice Weld Class at the Steamfitters Technology Center in Pittsburgh beginning on **Monday, March 3, 2014** and continuing **Monday through Friday**, ending on **Friday, June 27, 2014**. **You will not be compensated during this training program.** This 680-hour class will be held daily from **7:00am – 3:30pm**.

* * *

YOUR ACCEPTANCE INTO THE APPRENTICESHIP PROGRAM IS BASED ON YOUR SUCCESSFUL COMPLETION OF THE WELDING CLASS. You will report to your job assignments on Monday, June 30, 2014.

(Steamfitters' Letter, 1/20/14, at 1-2.)

As a matter of law, acceptance of a job that is contingent upon successful completion of a training program for only the prospect of better employment, as is the case here, does not constitute the requisite necessitous and compelling cause to qualify for UC benefits under the Law. *See Fernacz*, 545 A.2d at 997. “[A]lthough ‘the claimant may have personal, economic, or career reasons for making h[is] decision to leave the employer . . . that does not constitute a necessitous

and compelling cause for voluntarily quitting.”” *Solar Innovations*, 38 A.3d at 1057 (citation omitted).

Because Claimant failed, as a matter of law, to establish a necessitous and compelling cause for quitting his employment with Employer, the UCBR properly denied Claimant UC benefits under section 402(b) of the Law.

Accordingly, we affirm.

ROCHELLE S. FRIEDMAN, Senior Judge

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ORDER

AND NOW, this 20th day of March, 2015, we hereby affirm the July 3, 2014, order of the Unemployment Compensation Board of Review.

ROCHELLE S. FRIEDMAN, Senior Judge