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LABOR LAW - UNEMPLOYMENT COMPENSATION - EFFECT OF VOLUNTARY QUITTING

Louis C. Andrews
University of Michigan Law School

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LABOR LAW — UNEMPLOYMENT COMPENSATION — EFFECT OF VOLUNTARY QUITTING — Plaintiff voluntarily quit working for defendant November 7, 1939, to take another job which he reasonably expected to be permanent, but which ended in seven weeks because of a slack in business. He applied for benefits accrued under the Iowa Unemployment Compensation Act during his employment with defendant, to which he was entitled unless disqualified by reason of his voluntary quitting. Defendant employer opposed the claim to prevent charging of benefit payments against his fund. The experience rating features of the Iowa act provide that the smaller the depletion in an employer's fund, the lower his future compensation tax. *Held*, plaintiff is not entitled to payments because of a recent amendment to the act [1] which disqualifies an employee unless the cause for leaving work is attributable to the employer. The fact that the unemployment does not directly stem from the voluntary quitting is immaterial. *Iowa Public Service Co. v. Rhode*, (Iowa, 1941) 298 N. W. 794.

The result of this decision is to bar permanently an employee from the unemployment compensation funds of any employer whose employment he has voluntarily quit. Since this will tend to discourage the seeking of better jobs, it is hardly consistent with the traditional notions of an employee's right to work for whom he pleases. Both the umpire and the appeal commission contended that other provisions of the Iowa act indicated the legislature did not intend the amendment to the voluntary quitting clause to have such an effect.[2]

[1] The present statute reads: "An individual shall be disqualified for benefits: A. If he left his work voluntarily without good cause attributable to his employer. . . ." Iowa Code (1939), § 1551.11. The former law disqualified the worker only temporarily and did not contain the words "attributable to his employer." See 3 C. C. H., UNEMPLOYMENT COMPENSATION SERVICE 18025, ¶ 1975 (1939).

[2] This is the basis for the decision by the umpire and by the majority commissioners on appeal. Iowa App. Trib. Dec. No. 40A-978-CM (April 12, 1940); No. 40A-897 C (1940); affd. Comm. Dec. No. 40C-90 (1940), noted 3 C. C. H., UNEMPLOYMENT COMPENSATION SERVICE 18511 (1941).

While one of the purposes of social security legislation is the promotion of stable employment,[3] the fundamental purpose is to entitle an unemployed worker to benefit payments if he is unemployed without "fault of his own." [4] The duration of the benefit payments is measured by the amount of work previously done for one or more employers, and the tax burden is passed from the employer to the ultimate consumer.[5] This case and the legislation which prompted it cast doubt on these original premises. This shift in opinion may be ascribed to the refinement of unemployment compensation by the experience rating or merit rating method of tax assessment [6] which permits a lower tax rate on industries where employment is most stable. The theory of such ratings is that benefit payments are one of the true costs of goods made by industries where employment fluctuates, so should be reflected in the price paid by the ultimate consumer of such goods.[7] In view of the direct correlation between benefit payments charged against an employer's fund and the rate of tax to be assessed against him in the future, it is not surprising that an action for benefit payments is beginning to be regarded by employers as something in the nature of a personal action between the employer and employee. While in theory the benefit payments are passed on to the consumer, the employer nevertheless is vitally interested in reducing the amount of payments attributable to him, since it affects his future tax rate. The recent amendments to voluntary quitting clauses, typified by the Iowa amendment, may be regarded as measures to protect this interest of employers. The principal case is the first decision by a court of last resort defining the effect of an amendment requiring that the cause for quitting be "attributable to the employer." [8] Formerly, the acceptance of an apparently permanent and comparable job was clearly proper cause for quitting,[9] while under the

[3] 3 C. C. H., UNEMPLOYMENT COMPENSATION SERVICE 18011 (1939).

[4] It is substantially this policy which is outlined in the "statement of state public policy" which appears as an introduction to the act of nearly every state. See Iowa Code (1939), § 1551.08. The inconsistency of this policy with the decision in the case was urged by counsel in the principal case but rejected. See also LESTER and KIDD, THE CASE AGAINST EXPERIENCE RATING 11 (1939) (Industrial Relations Monograph No. 2).

[5] Raushenbush, "Unemployment Compensation Experience in Wisconsin," 28 AM. LAB. LEG. REV. 154 (1938).

[6] The acts of 40 states include such provisions. Id. at 157.

[7] Id. at 157.

[8] The jurisdictions which require the cause to be attributable to the employer are Colorado, Hawaii, Iowa, Massachusetts, Michigan, and Wisconsin. Hawaii and Colorado have apparently made no rulings on the amended clause. Michigan's amendment, Mich. Pub. Acts (1941), No. 364, took effect only on July 1, but because of the volume of employment in Michigan a decision may be expected soon. The Wisconsin decisions are not in point because another provision of that act clearly disqualifies the worker from the funds of any employer whom he voluntarily quits, regardless of the direct cause of the unemployment. Massachusetts rules that an employee who is disqualified by reason of voluntary quitting regains his eligibility when reemployed gainfully. Massachusetts Unemployment Compensation Commission, Dec. No. 1225 Mass. A. (1940).

[9] Yankey, "Voluntary Separations," SOUTH DAKOTA UNEMPLOYMENT COMPENSATION COMMENTS 7 (Sept. 1940), 5 (Oct. 1940); Pa. Unemployment Compensation Board, Appeal of Schrecengast, No. B44-5-20 (Aug. 2, 1938), and Appeal of Roth,

amended provision it evidently is not. In the principal case, however, the court need not have considered the voluntary quitting clause, because the direct cause of the plaintiff's unemployment was not his leaving the defendant's employ but the last employer's prospective lack of work. Where the voluntary quitting is not the immediate cause of the unemployment, an approach in keeping with the general intent of the unemployment compensation law would be to ask, "Is the employee to blame for his being out of work?" To hold that the employee in the principal case is to blame because he would still be employed if he had stayed with the defendant looks beyond the immediate cause of the unemployment and denies unemployment compensation in every case of voluntary quittal. Such a policy would encourage the employee to stay permanently with his first employer, or leave at his peril. If the immediate cause of a worker's present unemployment is not a voluntary quitting, the circumstances of his leaving previous work should be immaterial even under the Iowa amendment. In such a case, previous employment should only measure the amount and duration of the benefit payments, but should not determine the worker's right to them. In deciding whether the worker is to blame for his unemployment, his reasonableness in quitting a prior job is a material consideration, but under the doctrine of the principal case the quitting could be deemed reasonable without entitling the worker to benefits. Thus the decision is harsher than is necessary under the amendment, and the amendment is based on a misconception of the true policy underlying unemployment compensation legislation.

Louis C. Andrews

No. B44-12-L-237 (Sept. 27, 1938); New Mexico, App. No. 39-AT (May 15, 1940); New Hampshire, App. 8-A-40 (Feb. 14, 1940); California: Op. B 1455c-03 (Mar. 4, 1938); Michigan Unemployment Compensation Commission, Referee's Decision No. AB-1390 (1940). (See C. C. H., UNEMPLOYMENT COMPENSATION SERVICE, ¶ 1975 under various states.)