

New York State Department of Labor

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NEW YORK STATE DEPARTMENT OF LABOR

UNEMPLOYMENT INSURANCE DIVISION

ADJUDICATION SERVICES OFFICE

October 2006

INTERPRETATION SERVICE-BENEFIT CLAIMS

VOLUNTARY LEAVING

Safety

Domestic Violence

STALKING BY AN ABUSIVE EX-SPOUSE

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When claimant is stalked near her place of employment by an ex-husband who has a history of violence toward her and her children, she has a reasonable fear for her safety, and good cause to quit her job to relocate.

A.B. 530403

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits effective October 29, 2005, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed February 10, 2006 (A.L.J. Case No. 005-31093), the Administrative Law Judge sustained the initial determinations.

The claimant appealed the Judge's decision to the Appeal Board

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant was employed as an administrative assistant at an accounting firm for just over two years, until October 28, 2005. During the first week of October 2005 the claimant saw her ex-husband standing by the train station near her place of employment. When married to him for the period from 1987 to 1995, the claimant was the victim of domestic violence, including his knocking out her teeth, burning her, and throwing her down a flight of stairs. Her children were also subjected to his abuse. The husband had also attempted to kidnap their daughter. In 1995 the claimant divorced her husband and moved to Florida . From 1995 to 2005, there were no incidents involving her ex-husband, as he did not know where she lived. The claimant moved back to New York in October 2003. When her ex-husband found out where she was living, she moved to Jersey City . Shortly thereafter she discovered that the ex-husband was also living in New Jersey , so in April 2004 the claimant moved to Brooklyn . The claimant had not seen her ex-husband for some time until that first incident in October 2005. On October 12, 2005 the claimant again observed him near her place of employment, as well as outside her place of residence. The claimant asked for a week off from work and went to Florida hoping that her ex-husband would think that she did not live in New York . She returned to New York and again observed him lingering near her place of employment, as well as outside of her place of residence. The claimant called her local police station, but the police told her that there was nothing that they could do until her ex-husband engaged in an overt act. She tried to alter her work schedule, coming in earlier and leaving earlier, but she still observed her ex-husband in the

vicinity of her employment, watching her. She made the decision to resign from her employment and relocate for her safety and that of her children. She moved to Florida in November 2005.

OPINION: The credible evidence establishes that the claimant voluntarily resigned from her position because she was being stalked by her ex-husband, by whose hand she had been the victim of domestic violence. The claimant made every attempt to avoid contact with him, moving twice after her return to New York , notifying the police of his malingering, and altering her work schedule, to no avail. Her ex-husband was repeatedly found to be lurking both at her place of residence and at her place of employment. In an effort to secure her safety as well as the safety of her children, the claimant chose to resign and move out of state. Before doing so, the claimant took action on several levels in an effort to preserve her employment, to no avail. The aforementioned circumstances clearly establish that the claimant had a compelling reason to resign from her employment. Accordingly, we conclude that the claimant was separated from her employment under non-disqualifying conditions. The decision of the Administrative Law Judge should be reversed.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination disqualifying the claimant from receiving benefits effective October 29, 2005, on the basis that the claimant voluntarily separated from employment without good cause is overruled.

The claimant is allowed benefits with respect to the issues decided herein.

COMMENTS

1. In this case, a claimant quit her job after having been repeatedly stalked at her place of employment by her violent abusive ex-husband, who had assaulted her and abused her children. She had been divorced from him for ten years and had moved to Florida , during which time there had been no contact because he did not know where she relocated.

She relocated back to New York , and thereafter observed him in the vicinity of her employment. She notified the police of his stalking; she tried to alter her work schedule, but still observed him stalking her. She quit to relocate out of state, in an effort to secure her safety and the safety of her children.

2. See [Review Letter 1-2006 on Domestic Violence](#)

