

*Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2003-567

APRIL TERM, 2004

	} APPEALED FROM:
	}
Mark Flint	} Employment Security Board
	}
v.	}
	} DOCKET NO. 08-03-005-01
Department of Employment and Training	}
	}
(Tod Murphy, Farmers Diner, Appellant)	}
	}

In the above-entitled cause, the Clerk will enter:

Employer appeals the Vermont Employment Security Board's determination that claimant is entitled to unemployment benefits because he left his job for good cause attributable to his employer. We affirm.

Claimant worked as a cook at employer's diner for approximately six months. He voluntarily quit his job and sought unemployment benefits, claiming that employer repeatedly made mistakes on his paychecks and failed to give him a promised raise. The claims adjudicator denied the claim, stating that claimant's personal dissatisfaction with his working conditions did not entitle him to unemployment benefits. Claimant appealed, and the parties were sent a notice advising them that the hearing before the appeals referee would be their only opportunity to present evidence regarding the claim. Claimant appeared at the scheduled telephonic hearing, but employer did not. Following the hearing, the appeals referee reversed the decision of the claims adjudicator and granted claimant's request for unemployment benefits. The appeals referee found credible claimant's testimony that his paychecks were repeatedly incorrect, that employer made him wait until the next paycheck to receive the additional wages owed him, and that employer failed to follow through with a promised raise. The appeals referee concluded that claimant left his job for good cause attributable to his employer based on employer's failure to correct payroll problems, to ensure prompt payment of wages owed, and to provide the promised pay raise. On appeal, the Board upheld the decision of the appeals referee.

Here, employer argues that the Board's reasons for finding good cause and granting claimant unemployment benefits are based on claimant's false factual assertions. Specifically, employer contends that he paid claimant in a timely manner for all hours worked, and that he did not promise claimant a raise. Employer's argument is unavailing. Employer had an opportunity to present evidence before the appeals referee but failed to do so. The appeals referee based her decision on testimony that she deemed credible, and the Board adopted her findings. The weight of evidence, credibility of witnesses, and persuasive effect of testimony are matters for the trier of fact, not this Court. Cook v. Dep't of Employment and Training, 143 Vt. 497, 501 (1983). Here, employer merely asserts that claimant was not telling the truth and refers to unspecified financial records that were never made part of the record. Under these circumstances, employer cannot prevail. See id. (issue of whether resignation is for good cause attributable to employer is matter within special expertise of Board, and thus Board's decision is entitled to great weight on appeal); cf. Burke v. Dep't of Employment Sec., 141 Vt. 582, 585 (1982) (failure to provide agreed-upon consideration when due constitutes good cause); Shorey v. Dep't of Employment Sec., 135 Vt. 414, 415 (1977) (failure to pay promised raise constitutes good cause).

cause).

Affirmed.

BY THE COURT:

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Paul L. Reiber, Associate Justice