

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

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2016-411

APRIL TERM, 2017

Debra Munson	}	APPEALED FROM:
	}	
v.	}	Employment Security Board
	}	
Department of Labor	}	
(LCB Personnel LLC t/a Residence at	}	
Shelburne Bay, Employer)	}	DOCKET NO. 09-16-041-07

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

Claimant appeals pro se from the denial of her request for unemployment benefits. She argues that the Employment Security Board’s decision is unfair. We affirm.

Claimant worked for approximately five years in employer’s housekeeping department. She resigned in August 2016 and applied for unemployment benefits. A claims adjudicator denied her request, finding that claimant left her employment voluntarily without good cause attributable to her employer. Claimant appealed, and, following a telephone hearing, an administrative law judge (ALJ) sustained the claims adjudicator’s decision. The ALJ found that during the summer of 2016, employer noticed that claimant did not seem herself. Claimant believes that she was suffering from depression; claimant was also the primary caretaker for her elderly parents. To accommodate claimant, employer presented her with three options: she could continue her full-time employment and maintain her role as supervisor/mentor; she could remain a full-time employee but discontinue her supervising and mentoring work; or she could work part-time. After returning from a preplanned vacation, claimant told employer that she was resigning. Because claimant voluntarily quit, she had the burden of showing that she had good personal cause for leaving and that the cause was attributable to her employer’s actions. The ALJ found that claimant failed to meet her burden. He determined that employer was clearly aware that claimant was having difficulties and proposed accommodations to retain her employment, which employer valued. Due to pressing personal issues, however, claimant chose to resign. Thus, while claimant might have had good personal reasons for leaving, her resignation was not based on any material change to her conditions of employment by employer. The Board adopted the ALJ’s findings and conclusions, and sustained the ALJ’s decision. This appeal followed.

Claimant argues on appeal that it is unfair to deny her unemployment compensation given her hard work for employer. She acknowledges that she quit, indicating that the work was stressful and that one of the rescheduling options proposed by employer would not have worked out.

We find no error in the Board’s decision. As indicated above, an individual is disqualified from benefits if “[h]e or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit.” 21 V.S.A. § 1344(a)(2)(A). The employee has the burden of proving good cause attributable to the employer. Skudlarek v. Dep’t of Emp’t &

Training, 160 Vt. 277, 280 (1993). Even if good cause exists, “an employee must make some effort to remedy alleged poor working conditions or else demonstrate that such effort would be unavailing.” Rushlow v. Dep’t of Emp’t & Training, 144 Vt. 328, 331 (1984). The facts here, as found by the Board, support its conclusion that claimant failed to meet this standard. See Bouchard v. Dep’t of Emp’t & Training, 174 Vt. 588, 590 (2002) (mem.) (“This Court will uphold the Board’s factual findings unless clearly erroneous and its conclusions of law if fairly and reasonably supported by those findings of fact.” (citation omitted)). Indeed, claimant does not argue otherwise on appeal. While claimant feels that the result is unfair, the Board’s decision is consistent with the law.

Affirmed.

BY THE COURT:

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Marilyn S. Skoglund, Associate Justice

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Beth Robinson, Associate Justice

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Karen R. Carroll, Superior Judge,  
Specially Assigned