

OTHER RECENT UNEMPLOYMENT COMPENSATION CASES

BY: KATE BARKMAN

Campbell, Durrant & Beatty, P.C.

(As prepared for and published in the PELRAS Newsletter
for the Pennsylvania League of Cities and Municipalities)

In addition to resolving the issue of representation at unemployment compensation hearings, the Courts have further clarified when an employee is fired for unemployment compensation purposes. On April 30, 2007, in an unreported decision, the Commonwealth Court issued a decision in Cipriani & Werner, P.C. v. Unemployment Compensation Bd. of Review, No. 2025 CD 2006, that the Claimant was entitled to unemployment compensation after her employer informed her that she should look for another job, since that statement had both the immediacy and finality of a firing. The local job center had determined that the claimant had voluntarily left her employment without cause of a necessitous and compelling nature. The Unemployment Compensation Board of Review reversed determining that the office manager's language possessed the immediacy and finality of a firing. The Commonwealth Court in affirming the Unemployment Compensation Board of Review (UCBR) noted that an employer need not actually use terms such as "fired" or "discharged." Here, the claimant was told to look for another job. While an unreported decision of the Commonwealth Court may not be cited or used as precedent, it provides guidance regarding the Court's opinion and view on the issue.

In a reported opinion, the Commonwealth Court held that Claimant James Bell was not fired when his boss told him "park your truck" after an on-the-job argument. Bell testified that he took it to mean, "You're fired." J.W. Bell v. Unemployment Compensation Bd. of Review, No. 1806 CD 2006 (April 20, 2007). Bell and his boss argued on the phone over a lack of material and manpower to finish a job twice on April 10, 2006. During the second argument, his boss told Bell he wasn't going to argue anymore and that Bell should "park his truck" at the employer's shop. Bell testified that he thought he was fired because in his trade as a plumber, "park the truck" is an expression often used in the trade to discharge an employee. Bell testified he did not ask his boss whether he was fired and he denied that he quit his job. The boss testified that during the argument, Bell repeatedly asked to be laid off because he and the boss would never get along. The boss testified that he told Bell he would not lay him off, but told Bell, "if [you] don't like working for me or [employer], I suggest you put your truck out front and go home." The boss also testified that Bell was too valuable an employee to discharge. The Unemployment Compensation Board of review had upheld the referee's decision that Bell had voluntarily quit, disqualifying him for benefits, finding that the boss's language gave the employee an option to continue employment and that Bell had not sought to clarify his employment status. In addition, it found that the boss did not intend to fire Bell but that Bell had not returned to work after parking the truck. In reviewing the case, the Commonwealth Court noted that in a voluntary quit case, the claimant had the burden to prove he was fired. The Court cited Monaco v. UCBR, 565 A.2d 127 (Pa. 1989) in which the Supreme Court found that the phrase "there's the door" did not have the immediacy and finality of a firing. The Court found that the Court was satisfied that the UCBR did not err in finding the boss's statement did not carry the immediacy of a firing.