



From the Halls of Justice and the Legislature



From The Desk of:
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Florida Worker Who Quit After Substantial Reduction in Hours Might Be Eligible for Jobless Benefits

A Florida state appeals court recently ruled that an employer's significant reduction of an employee's work hours may constitute sufficient good cause to voluntarily quit and still collect unemployment compensation benefits. Generally, under Florida law, an employee who voluntarily leaves employment without good cause attributable to the employer is ineligible for unemployment compensation benefits.

Gabriel Diaz, a prep cook for an employee leasing company, voluntarily left his employment and then filed a claim for unemployment compensation benefits. The claims adjuster denied his claim, and he appealed, claiming that his hours had been cut so severely that he spent more money getting to work than he actually earned. At the telephonic hearing, the appeals referee determined that Diaz was not eligible for benefits because he voluntarily left work and the reason for leaving was not attributable to the employer. The Unemployment Appeals Commission affirmed the appeals referee's decision, and the employee appealed to the Fifth District Court of Appeal.

The appellate court noted that "good cause" for voluntarily quitting includes those circumstances that would impel the average, able-bodied, qualified worker to give up his employment. The appeals court reasoned that a significant reduction in hours or salary could constitute good cause attributable to the employer, which would allow an employee to voluntarily terminate his employment and still remain eligible for unemployment benefits. The employer did not dispute the employee's testimony that his hours had been cut and he was only working one to two days per week, sometimes for only one hour at a time. The appeals court therefore reversed the appeals commission's decision and remanded the case for consideration of whether the reduction in the employee's hours was substantial enough to constitute "good cause" attributable to the employer.

Practically Speaking: This is an interesting case, since it counters previous court rulings under Florida law that an employee who voluntarily leaves employment without good cause attributable to the employer is not eligible for unemployment compensation benefits. Additionally, in this poor economy, there is the increased possibility that employees may decide to voluntarily leave because of reduced hours, and, under this ruling, employers may be faced with paying unemployment compensation. Finally, this is an important ruling for employers in our area since the Florida Fifth District of Court of Appeal, which includes Brevard County, decided this case.

For additional information regarding this article, contact Myrna Galligano at mgalligano@cfl.rr.com. (Source: *Diaz v. Unemployment Appeals Commission*, Fla. Ct. App., Case No. 5D09-1011 (March 26, 2010) as reported by SHRM Senior Legal Editor, Joanne Deschenaux, J.D.)