

COMMONWEALTH OF MASSACHUSETTS
Division of Administrative Law Appeals


PAULA YOUNG,
Petitioner

Docket No. DET-22-0340

v.

DEPARTMENT OF
UNEMPLOYMENT ASSISTANCE,
Respondent

Appearance for Petitioner:

Paula Young, *pro se*


Appearance for Respondent:

John Cronin, Esq.
Department of Unemployment Assistance
19 Staniford Street, 1st Floor
Boston, MA 02114

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The Petitioner is not entitled to unemployment benefits. When her job switched to remote work, even though how she performed her job changed, her duties did not. Accordingly, she did not have good cause for leaving her employment.

DECISION

Pursuant to G.L. c. 151A, § 39, the Petitioner, Paula Young, appeals a determination by the Department of Unemployment Assistance (“DUA”) denying her unemployment benefits. The Petitioner was a longtime employee of the DUA. She applied for unemployment benefits on February 26, 2022. Her claim was denied on August 13, 2022. Two days later, she filed a timely

appeal. DUA then referred the matter to the Division of Administrative Law Appeals (“DALA”) for a hearing. *See* G.L. c. 151A, § 39(b).

With the parties’ assent, I conducted a hearing via the Webex platform on November 10, 2022.¹ I presided over the hearing from the DALA office located at 14 Summer Street, 4th Floor, Malden, MA 02148. Ms. Young testified on her behalf; the Board called Yvonne Fernandez, a Contact Center Director. I swore in Ms. Young and Ms. Fernandez and was able to observe their demeanor throughout their testimony. I also recorded the hearing via digital audio, which serves as the official recording of the hearing. The parties presented closing arguments at the conclusion of hearing, whereupon the administrative record was closed.

FINDINGS OF FACT

Based on the testimony, and the exhibits admitted into evidence, I make the following findings of fact:

1. The Petitioner began working at the Office of Labor & Workforce Development in June, 1991. (Young Testimony; Exhibit 7.)
2. Her official title was Job Service Rep. I (“JSR I”). Informally, she was known as a claims adjuster. (Young Testimony; Exhibit 7.)
3. She held this position from the time she began working in 1991 until her resignation in 2021. (Young Testimony; Exhibit 7.)
4. By all accounts she was a good worker. She always enjoyed her job and, were it not for

¹ “The Presiding Officer may designate that all or a portion of a hearing be conducted with one or more participants situated in different locations and communicating through the medium of one or more telecommunication devices, including telephone and video conferencing, unless the Respondent or Petitioner lacks access to sufficient Electronic Medium.” 801 C.M.R. 1.01(12).

- remote work, would have loved to continue with it. (Young Testimony.)
5. She always worked primarily in the Worcester region. Until the COVID-19 pandemic, she always worked in person. At the beginning, her office was located on Front Street in the Worcester career center. In 2013, her office was relocated to a different location on Main Street. (Young Testimony.)
 6. Around 2015, DUA closed its Worcester office. The Springfield office also closed. Anyone who wanted to continue working would have to relocate to Lawrence or Boston. Fortunately, for the Petitioner, a small number of adjusters were allowed to stay in Worcester, working back at the career center. The Petitioner “jumped at the chance.” (Young Testimony; Exhibit 7.)
 7. As a JSR I, or adjuster, she was responsible for a variety of tasks that could be sorted into four main areas: claims, adjudication, appeals, and overpayments. (Young Testimony; Exhibits 1 & 5.)
 8. Essentially, she was responsible for helping parties navigate the unemployment system. Sometimes that involved assisting a party putting together their application: making sure they had the right paperwork, that they met basic qualifications, navigating the on-line system, etc. (Young Testimony; Exhibits 1 & 5.)
 9. When a person made a claim, she adjudicated it, meaning she made an initial determination whether the person qualified for benefits or not. (Young Testimony; Exhibits 1 & 5.)
 10. At times, parties would need help appealing those decisions. Her job required her to help them navigate that process too. (Young Testimony; Exhibits 1 & 5.)
 11. Before the COVID-19 pandemic, many of her interactions with claimants were in person.

- Everywhere she worked, she helped walk-ins, which were a majority of cases. But also, she would help parties on the phone—either from calls directly to her office or transfers from the call center. (Young Testimony; Exhibits 1 & 5.)
12. Over her career, how often she worked with parties over the phone or in-person fluctuated. (Young Testimony.)
 13. Her job description never changed. And although she mostly helped walk-ins, her job description envisioned an adjuster doing most of their work by mail and/or telephone. (Exhibit 1.)
 14. Then, in 2020, the Covid-19 pandemic caused the Petitioner, and her entire office, to switch to remote work. She worked remotely from March 2020 until she resigned in November 2021. (Young Testimony.)
 15. DUA seemed destined to eliminate walk-in centers altogether; Covid-19 just hastened that process in Worcester. After March 2020, the walk-in center never reopened. (Young and Fernandez Testimony.)
 16. The transition from in-person to remote work was not smooth. There was a lot of confusion early on about how employees were supposed to accomplish their tasks. The Petitioner estimated there were approximately 14,000 calls the first weekend after the shutdown and they were simply not ready for them. (Young Testimony.)
 17. Nevertheless, she remained an adjuster, and her duties remained the same. (Young and Fernandez Testimony; Exhibit 1.)
 18. Eventually, in August 2021, the Commonwealth developed a formal telework policy and the Petitioner signed a Telework Acknowledgment specifically for DUA. (Exhibits 3 & 4.)

19. Like many employees forced to work at home, the Petitioner did not like working remotely. She preferred interacting with people, like she did with walk-ins before 2020. (Young Testimony.)
20. Her duties did not change, but the focus of her work did. Prior to remote work, she spent a lot of time on claims. After the switch, she did more adjudications. Both were part of her responsibilities, but the balance had shifted. (Young Testimony.)
21. While working remotely, everything was done by phone and/or e-mail. This was also a big change for her, since before only a tiny fraction of her work was over the phone. (Young Testimony.)
22. She also had a harder time helping parties because it was often unclear who she could reach out to for help. At the call centers, she knew who to go to when she had a question or a specific issue. As she put it, she did “lots of fixing.” But remote work changed that and made it harder to communicate with the right people to help fix the issue. (Young Testimony.)
23. Things essentially slowed down a lot. Complaints, understandably, went up. She was sworn at. She had to talk to people about accidental overpayments, which was difficult for her. (Young Testimony.)
24. At one point, she volunteered to work in constituent services. She thought she might like that more. But it was equally, if not more, unproductive and she returned to her job as an adjuster. (Young Testimony.)
25. The Petitioner often asked her supervisor, Renee Steel, if she was ever going to be able to return in person. Ms. Steel, in turn, would inquire of her supervisor, Yvonne Fernandez. (Fernandez Testimony.)

26. Ms. Fernandez simply did not know. She had no idea if DUA planned on reopening a physical location for walk-ins. And if they did, she did not know who would staff it. To date, she does not believe anyone from the Petitioner's office has returned to in-person work, at least not in Worcester. (Fernandez Testimony.)
27. This uncertainty was conveyed to the Petitioner. She knew it was unclear when, or if, her job would ever return to an in-person position. In fact, the Petitioner and her co-workers were asked to clean out their personal belongings. (Young and Fernandez Testimony.)
28. After a while, the Petitioner accepted that remote work was her only option. It was pointless to keep asking about it because everyone knew she wanted to work in person and there were no opportunities for that. (Young Testimony.)
29. Finally, on October 15, 2021, she gave her employer notice that she would be leaving, because of the change in circumstances:

I was hoping to return to work for the MassHire Worcester office, but apparently it will not be possible. I enjoyed working with the customers one on one. I appreciated the ability to walk and move around while on the job in the career center and I had less constant computer work. The job as it is now – is so different than what I was accustomed to. I would not be leaving were it not for the fact that my job at the Career Center is no longer available. Therefore I will be leaving and filing for my pension.

(Exhibit 6.)

30. Her last day of work was November 3, 2021. (Exhibit 7.)
31. She subsequently filed for unemployment. (Exhibit 7.)
32. On August 13, 2022, her claim was denied. The Department explained its reasoning:

You chose to leave your work when you were permanently transferred to new duties. Since the new work is considered suitable, your leaving work is determined to be voluntary and without good cause attributable to the employing unit.

You left work because you alleged the employer-initiated change in the

work location from the Career Center to remote work due to COVID and you no longer can work in the same capacity as an adjuster, because your work will not be returning to the Call Center. Since the work is considered suitable, and your job functions as an adjuster has not change [sic], your leaving work is determined to be voluntary and without good cause attributable to the employing unit.

(Exhibit 7.)

33. On August 15, 2022, the Petitioner filed a timely notice of appeal. (Exhibit 7.)

CONCLUSION AND ORDER

The Petitioner has the burden to prove she is eligible for unemployment benefits. *See* G.L. c. 151A, § 25(e)(1); *Cantres v. Dir. of Div. of Employment Security*, 396 Mass. 226, 230 (1985).

1. The Petitioner’s remote work, while unsatisfying, did not result in any change to her job duties.

The Petitioner was not terminated, she left voluntarily. Accordingly, she is only eligible for benefits if she can establish “by substantial and credible evidence that [s]he had good cause for leaving attributable to the employing unit or its agent.” G.L. c. 151A, § 25(e)(1). Good cause can take many forms. Here, however, the Petitioner only advances one argument: her job duties changed so much when she was forced to work remotely that it was no longer suitable employment. Indeed, “[l]eaving employment because it is or becomes unsuitable is, under the case law, incorporated into the determination of ‘good cause.’” *Baker v. Director of Div. of Unemployment Assistance*, 84 Mass. App. Ct. 1101 (2013) (unpublished opinion), *citing Graves v. Director of the Div. of Employment Security*, 384 Mass. 766, 768 n.3 (1981); *see Conlon v. Director of the Div. of Employment Security*, 382 Mass. 19, 21, 22 n.1 (1980).

Whether a new job, or new duties, are suitable is a question of fact evaluated on a case-by-case basis. *See Potris v. Comm. Of Dept. of Employment & Training*, 42 Mass. App. Ct. 735,

739 (1997); *President and Fellows of Harvard College v. Director of Div. of Employment Security*, 376 Mass. 551, 556 (1978). Factors to take into consideration include “whether the employment is detrimental to the health, safety or morals of an employee, is one for which [s]he is reasonably fitted by training and experience, including employment not subject to this chapter, is one which is located within reasonable distance of [her] residence or place of last employment . . . and is one which does not involve travel expenses substantially greater than that required in [her] former work.” G.L. c. 151A, § 25(c). Additionally, “[n]o work shall be deemed suitable, and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work . . . (2) If the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.”² *Ibid.* For example, certain changes can render a job unsuitable, such as “permanently transferring the claimant to new duties that are outside of the claimant’s general work classification or that will not permit continued use of the claimant’s highest skill.” Decision No. 0017 2866 38 (Bd. of Rev., July 14, 2016), *citing* DUA’s Service Representatives’ Handbook, § 1215(A).³

On the other hand, “[g]eneral stress and dissatisfaction with one’s employment do not amount to urgent and compelling reasons adequate to make leaving employment involuntary.” *Crane v. Commissioner of the Dept. of Employment*, 414 Mass. 658, 661 (1993); *see D’India v. Director of the Div. of Employment Sec.*, 387 Mass. 1005 (1982); *Sohler v. Director of the Div.*

² There are additional conditions deemed unsuitable as a matter of law. They are not, however, applicable to this case. *See generally* G.L. c. 151A, § 25.

³ The Service Representatives’ Handbook has since been replaced by the DUA Adjudication Handbook. *See* < <https://www.masslegalservices.org/content/dua-adjudication-handbook> >

of Employment Sec., 377 Mass 785, 789 (1979). There is not good cause to leave when one is disappointed with the way a business is run, *Sohler, supra*, disagrees with a supervisor’s “methods of operations,” *D’Inida, supra*, or believes their salary does not reflect the pressures of the job. *Fanion v. Director of the Div. of Employment Sec.*, 391 Mass. 848, 852 (1984).

In analyzing the Petitioner’s case, I am mindful that chapter 151A “shall be construed liberally in aid of its purpose, which purpose is to lighten the burden which now falls on the unemployed worker and his family.” G.L. c. 151A, § 74.

In this case, the issue is whether the Petitioner’s shift to remote work changed her duties in such a way that her job, when she quit, was fundamentally different than what she was hired to do. Cases that recognize changing duties as “good cause” to leave employment focus on changes in *what* an employee does, not *how*. For example, an employee who was demoted from being the Activities Day Club Coordinator to the Activities Day Club Aide, was given a new position antithetical to the one for which she was originally hired. *See* Decision No. 0017 2866 38, *supra*. Her original job required “a high level of responsibility, direction of other employees, supervision, and organization. On the other hand, as an aide, the claimant was responsible for doing activities and games with the Day Club members and assisting them with bathroom needs.” *Id.* at 6; *see Baker, supra*, (job unsuitable when applicant not qualified to be a manager); Decision No. 0074 4090 18 (Bd. of Rev., May 25, 2022) (job unsuitable when originally responsible for nearly 30 tasks but new assignment required 75% of her time focused on one thing and included tasks for which she had not been trained).

Here, the Petitioner’s duties did not change. She had always been responsible for claims and adjudications. That she responded to more adjudications after the pandemic does not mean

her duties changed. Rather, the job at that point simply required her to focus more on one part of her job than the other.

As the Petitioner forthrightly admits, the primary change was her inability to work in person, with walk-in claimants. She also complained that the structure of remote work made it harder to know who to seek out for help. Her frustration with remote work is understandable. I find her to be an extremely credible and sincere witness. She loved her job and wanted to continue doing it, albeit the way it existed before remote work. Most employees probably felt similarly about remote work. But subjective dissatisfaction is not good cause for leaving employment. She was not being asked to perform anything other than her well-understood duties and responsibilities. She was only being asked to perform them differently, *i.e.*, remotely instead of in person.

Because her duties did not change, she did not have just cause to voluntarily leave her employment.

2. If the Petitioner's duties had changed sufficiently to justify her departure, any further attempts to correct the situation would have been futile.

Normally, if a Petitioner can show she had good cause to leave her employment, she must then prove that “she made a reasonable attempt to correct that situation or that such an attempt would have been futile.” *Guarino v. Dir. of Division of Employment Security*, 393 Mass. 89, 93 (1984), quoting *Kowalski v. Director of the Div. of Employment Security*, 391 Mass. 1005, 1006 (1984). Generally, “the fundamental job duties of a position are dictated by an employer and, absent unusual circumstances, most likely not subject to change.” Decision No. 0017 2866 38, *supra*. In those cases, the Petitioner need not make much effort, if any, to better her situation. *Ibid.*

Although I find the Petitioner did not have good cause to leave her employment, I nevertheless address this next requirement (should a reviewing body disagree with my initial finding). In this respect, I find the Petitioner did whatever she could to correct her situation, but any further attempts would have been futile. The Petitioner wanted to work in person. That was beyond her control and the control of her superiors. She consistently asked about returning to work and was consistently told no one knew if it would ever happen. By the time she resigned, there were no adjusters working in person in Worcester. It does not appear as if adjusters were working in person anywhere. It was clear, however, that there were no in-person opportunities for the Petitioner then or in the foreseeable future. Having asked to work in person several times, she did all she could to fix the problem that led to her resignation.

CONCLUSION

While I sympathize with the Petitioner’s frustration with remote work, her duties did not change. Accordingly, she is not entitled to unemployment benefits. The Department’s determination is affirmed.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Eric Tennen

Eric Tennen
Administrative Magistrate