

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Karen Lemke,	:	
Petitioner	:	
	:	
v.	:	
	:	
Unemployment Compensation	:	
Board of Review,	:	No. 413 C.D. 2025
Respondent	:	Submitted: June 16, 2026

BEFORE: HONORABLE LORI A. DUMAS, Judge
HONORABLE STELLA M. TSAI, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION
BY JUDGE TSAI

FILED: August 25, 2026

Petitioner Karen Lemke (Claimant) petitions, *pro se*, for review of an order of the Unemployment Compensation Board of Review (Board). The Board affirmed a Referee's determination that Claimant was ineligible for benefits under Section 402(b) of the Unemployment Compensation Law (Law),¹ relating to voluntary separation from employment without cause of a necessitous and compelling nature. For the reasons set forth below, we affirm the Board's order.

I. BACKGROUND

Claimant filed for unemployment benefits on November 15, 2023, after separating from her part-time position as a millwork specialist with Home Depot USA, Inc. (Employer). (Certified Record (CR) at 003, 014, 017, 020, 094-095.) The Department of Labor and Industry, Office of Unemployment Compensation Benefits

¹ Act of December 5, 1936, Second Ex. Sess., P.L. (1937) 2897, *as amended*, 43 P.S. § 802(b).

(Department) issued a “Disqualifying Separation Determination,” concluding that Claimant was ineligible for benefits pursuant to Section 402(b) of the Law. (CR at 031-044.) Claimant appealed the Department’s determination, and a Referee conducted a hearing. (CR at 046-052, 090-100.) Claimant and Employer’s witness, Jacqueline Larsen, testified at the hearing before the Referee. (*Id.*)

Claimant testified to the circumstances surrounding her separation from employment, asserting that Employer terminated her employment due to her inability to lift heavy objects. (CR at 095-096.) Claimant testified that Employer formerly hired her as a part-time millwork specialist and she worked an average of 24 to 25 hours per week, receiving \$21 per hour as compensation. (CR at 094.) Claimant previously worked at one of Employer’s other locations as a kitchen designer, and she moved to the Stroudsburg, Pennsylvania location expecting to retain the same position. (CR at 095.) She testified that she has a degree in architecture and has “certain skills [she] wanted to . . . make use of.” (*Id.*) However, when Claimant arrived at Employer’s Stroudsburg location, she was informed Employer was not in need of kitchen designers, and Employer offered her the millwork specialist position instead. (*Id.*) Claimant expressed concerns about the need to lift heavy objects as part of this role, but Employer reassured her that it would be taken care of by others. (*Id.*) Claimant stated Employer brought her in for coaching to improve her performance, but she testified that it felt more like she was being reprimanded. (CR at 096, 098.) As to her separation from employment, Claimant testified that, on November 14, 2023, Employer informed Claimant that it was transferring her to a cashier position because she was not able to meet the lifting requirements of her millwork specialist position. (CR at 095.) Claimant testified that the transfer was unacceptable to her. (*Id.*)

Claimant disputes Employer's assertion that she walked out of the meeting and quit the job. Claimant explained to the Referee that, at the time she did not accept the transfer she was still scheduled to work as a millwork specialist, but Employer planned to schedule her to work as a cashier. (CR at 99.) Claimant stated that Matthew Smith, an assistant special manager who was also at the meeting, told her to leave, take off her uniform, and clean out her locker. (*Id.*) She further explained to the Referee that she was hired because she had certain skills and questioned whether there is a level of transfer that is unacceptable. (*Id.*) She asked whether a person just has to accept any sort of demotion. (*Id.*)

Ms. Larsen testified on behalf of Employer. (CR at 091.) She stated that Claimant did come in as a millwork specialist but struggled in regard to the special orders system, and, as a result, Employer implemented coaching to improve her performance. (CR at 097.) She further testified that Employer did not terminate Claimant's employment. (*Id.*) Ms. Larsen clarified that the heavy objects Claimant was referring to were doors, but those were not the objects Employer asked her to move; rather, Employer asked Claimant to move objects in the store aisles, which tended to block customers from shopping. (*Id.*) Ms. Larsen further testified that employees were able to ask others to lift the objects in the aisles if they were unable to do so themselves. (*Id.*)

As to Claimant's last day of employment, Ms. Larsen testified that she met with Claimant to inform her that she would not be able to continue as a millwork specialist because she did not understand the special ordering system. (CR at 097.) Ms. Larsen offered Claimant a front-end cashier position instead. (*Id.*) According to Ms. Larsen, Claimant refused the offer, saying it was "beneath her" and that she quit. (*Id.*) Ms. Larsen stated that she did not fire Claimant, as Employer has a

process for termination. (*Id.*) She confirmed that, had Claimant not walked out, there was continuing work available to her after November 14, 2023. (CR at 098.)

Following the hearing, the Referee issued a decision, concluding that Claimant was ineligible for unemployment compensation benefits under Section 402(b) of the Law. (CR at 102-112.) The Referee issued the following findings of fact:

1. The claimant last worked as a part time millwork specialist for Home Depot USA, Inc. beginning employment in November 2021 with a last day worked on November 24, 2023.
2. The claimant worked an average of 24 hours per week earning \$21 per hour.
3. On November 24, 2023, the employer met with the claimant to inform the claimant that she was going to be transferred to a front-end cashier.
4. The claimant walked out of the meeting.
5. On November 24, 2023, the claimant quit the job.
6. After November 24, 2023, continuing work was available to the claimant from the employer.

(*Id.* at 103.)

Claimant appealed to the Board.² (CR at 114-116.) The Board affirmed the order of the Referee, concluding that Claimant was ineligible for benefits because she voluntarily quit her position and failed to prove she quit for a necessitous and compelling cause.³ (CR at 146-154.) In doing so, the Board adopted and incorporated the Referee's findings and conclusions but noted that findings of fact

² The Board previously issued an order dismissing "employer's appeal" on the basis that Employer was not an aggrieved party. (CR at 134-142.) Claimant appealed the Board's order to this Court at docket number 1218 C.D. 2024. (CR at 144.) On November 6, 2024, at the Board's request, this Court remanded the matter to the Board because the Board had issued its prior order dismissing "employer's appeal" in error. (*Id.*)

³ The Board's order vacated its prior dismissal order dated May 29, 2024. (CR at 147.)

1, 3, 5, and 6 should read November 14, 2023, not November 24, 2023.⁴ (CR at 147.) The Board offered the following reasoning for its decision:

The claimant testified that she was fired for inability to lift heavy doors. However, the employer witness credibly testified that the employer has a policy where, if an employee cannot lift something, they do not need to lift it, they only need to notify someone else who is able to lift the item, so the item is out of the customer's way. Additionally, the employer credibly testified that the claimant quit because, after being informed she needed to be transferred into a different department, she felt the job was beneath her.

....

As the transfer was to a different department, but at the same rate of pay, the claimant has not met her burden that she quit for a necessitous and compelling reason.

(*Id.*)

II. ISSUES

On appeal to this Court,⁵ Claimant essentially argues the following: (1) the Board's findings of fact that Claimant voluntarily quit her position with Employer are not supported by substantial evidence; and (2) the Board erred in its conclusion that Claimant did not have cause of a necessitous and compelling nature for her voluntary separation from Employer.

⁴ We note that Employer initially hired Claimant as a kitchen designer in November 2021, and she began the millwork specialist position in November 2022. (CR at 014, 017, 025, 094-095.)

⁵ This Court's review is limited to determining "whether constitutional rights are violated, whether an error of law was committed, or whether necessary findings of fact were supported by substantial evidence." *Ferguson v. Unemployment Comp. Bd. of Rev.*, 356 A.3d 278, 283 n.3 (Pa. Cmwlth. 2026) (citing *Wise v. Unemployment Comp. Bd. of Rev.*, 111 A.3d 1256, 1261 n.5 (Pa. Cmwlth. 2015)).

III. DISCUSSION

A. Substantial Evidence

First, we will address Claimant's argument that substantial evidence does not exist to support the Board's finding that she voluntarily quit her job. We interpret this argument as a challenge to the Board's adopted findings of fact 4 and 5, which provide that "[C]laimant walked out of the meeting[,]” and, “[o]n November 14, 2023, . . . [C]laimant quit the job.” (CR at 103,147.) “The Board's findings of fact are conclusive on appeal only so long as the record, taken as a whole, contains substantial evidence to support them.” *Johnson v. Unemployment Comp. Bd. of Rev.*, 502 A.2d 738, 740 (Pa. Cmwlth. 1986). Substantial evidence is relevant evidence upon which “a reasonable mind, without weighing the evidence or substituting its judgment for that of the fact finder,” could base a conclusion. *Id.*; *Minelli v. Unemployment Comp. Bd. of Rev.*, 39 A.3d 593, 595 n.4 (Pa. Cmwlth. 2012) (en banc) (citation omitted). In determining whether there is substantial evidence to support the Board's findings, this Court must examine the evidence and testimony in the light most favorable to the prevailing party, giving that party the benefit of any inferences that can logically and reasonably be drawn from the evidence. *Johnson*, 502 A.2d at 740. Additionally, the Board has discretion to make its own determinations as to witness credibility and evidentiary weight. *Peak v. Unemployment Comp. Bd. of Rev.*, 501 A.2d 1383, 1388 (Pa. 1985). “In making such determinations, the Board is free to reject the testimony of any witness, even uncontradicted testimony.” *Russo v. Unemployment Comp. Bd. of Rev.*, 13 A.3d 1000, 1003 (Pa. Cmwlth. 2010).

Claimant challenges the findings to the extent that they suggest she quit her job by walking out of the meeting. Claimant contends that, after she declined to

accept the transfer, Employer instructed her to clean out her locker and leave. Claimant interpreted this instruction as a termination of her employment. In other words, she disputes that she quit. During the hearing, Claimant and Employer provided contradictory testimony, which the Referee recognized and resolved in favor of Employer. Employer provided testimony indicating that Claimant left the meeting without Employer having fired her. Employer contends that Claimant, after being offered the front-end cashier position, felt that such a position was “beneath her” and that she said she quit. The Board, therefore, did not ignore Claimant’s proffered evidence but rather found Employer’s contrary testimony to be credible. Claimant is essentially asking this Court to overturn the Board’s credibility and evidentiary weight determinations, which we cannot do. Thus, the Board’s findings of fact are supported by substantial evidence.

B. Cause of a Necessitous and Compelling Nature

We next consider Claimant’s argument that the Board erred in concluding that Claimant failed to establish cause of a necessitous and compelling nature for voluntarily quitting her position. Under Section 402(b) of the Law, a claimant is disqualified from unemployment compensation benefits if she did not have cause of a necessitous and compelling nature to voluntarily quit her position. Whether a claimant had such cause for voluntarily leaving work is a question of law subject to this Court’s review. *Wasko v. Unemployment Comp. Bd. of Rev.*, 488 A.2d 388, 389 (Pa. Cmwlth. 1985). The claimant bears the burden to demonstrate the following to establish a necessitous and compelling cause: “(1) circumstances existed which produced real and substantial pressure to terminate employment; (2) such circumstances would compel a reasonable person to act in the same manner; (3) the claimant acted with ordinary common sense; and, (4) the claimant made a reasonable

effort to preserve her employment.” *Fitzgerald v. Unemployment Comp. Bd. of Rev.*, 714 A.2d 1126, 1129 (Pa. Cmwlth. 1998), *appeal denied*, 794 A.2d 364 (Pa. 1999); *Brunswick Hotel & Conf. Ctr., LLC v. Unemployment Comp. Bd. of Rev.*, 906 A.2d 657, 660 (Pa. Cmwlth. 2006).

Under our jurisprudence, a claimant must show that circumstances existed that produced real and substantial pressure to terminate employment. *Brunswick Hotel*, 906 A.2d at 660. An employer may make modifications in job assignments, and “as long as [those] modifications are reasonable, the employee must abide by the employer’s decision or risk being held ineligible for unemployment compensation benefits.” *Kistler v. Unemployment Comp. Bd. of Rev.*, 416 A.2d 594, 597 (Pa. Cmwlth. 1980). However, a substantial unilateral change in the terms of employment renders a job unsuitable and constitutes a necessitous and compelling cause for an employee to terminate her employment. *Accu-Weather, Inc. v. Unemployment Comp. Bd. of Rev.*, 634 A.2d 818, 820 (Pa. Cmwlth. 1993); *Brunswick Hotel*, 906 A.2d at 660. Whether a change is “so substantial as to warrant necessitous cause for terminating employment” is examined on a case-by-case basis. *Brunswick Hotel*, 906 A.2d at 660. “[S]ubstantiality is measured by the impact on the employee, and whether the change involves any real ‘difference’ in employment conditions.” *Yingling v. Unemployment Comp. Bd. of Rev.*, 228 A.3d 289, 298 (Pa. Cmwlth. 2020) (quoting *McCarthy v. Unemployment Comp. Bd. of Rev.*, 829 A.2d 1266, 1272 (Pa. Cmwlth. 2003)). Our law is clear that a claimant’s mere dissatisfaction with her work assignment is not a necessitous and compelling cause to voluntarily quit her position. *Stiffler v. Unemployment Comp. Bd. of Rev.*, 438 A.2d 1058, 1060 (Pa. Cmwlth. 1982).

Courts have examined numerous instances of circumstances that produced real and substantial pressure to terminate employment that rose to the level of a necessitous and compelling cause. For example, significant reductions in pay, increases in responsibilities, or increases in working hours can constitute such a necessitous and compelling cause. *See A-Positive Elec. v. Unemployment Comp. Bd. of Rev.*, 654 A.2d 299 (Pa. Cmwlth. 1995) (holding a 33.8% reduction in claimant's wages was a substantial unilateral change and thus constituted a necessitous and compelling cause for termination); *see also Naylon v. Unemployment Comp. Bd. of Rev.*, 477 A.2d 912 (Pa. Cmwlth. 1984) (holding reduction of claimant's averaged commissions from \$420 to \$150 per week constituted a necessitous and compelling cause for termination); *see also Brunswick Hotel*, 906 A.2d at 663 (holding employer's unilateral termination of health care benefits was substantial change in terms of employment and thus constituted a necessitous and compelling cause for termination); *see also Fitzgerald*, 714 A.2d at 1129-30 (holding an increase in claimant's responsibility from one floor to all five floors of employer's health care facility, which required working weekends and holidays, was a substantial and unilateral change in employment and thus constituted a necessitous and compelling cause for termination); *see also Yingling*, 228 A.3d at 299 (holding doubling of working hours due to absence of an assistant manager, whom claimant expected to be hired when he first accepted the job, produced real and substantial pressure to terminate employment and thus constituted a necessitous and compelling cause for termination). Furthermore, we have held that "[l]ack of work, perpetual layoffs[,] and drastic reductions in hours constitute a necessitous and compelling [cause] to quit one's job." *Earnest v. Unemployment Comp. Bd. of Rev.*, 30 A.3d 1249, 1256 (Pa. Cmwlth. 2011). In addition, this Court has held that

an alteration in a claimant's duties after her employment in a skilled position, with the attendant loss or diminution of those skills, was cause of a necessitous and compelling nature for a voluntary quit. *See Nat'l Aluminum Corp. v. Unemployment Comp. Bd. of Rev.*, 429 A.2d 1259 (Pa. Cmwlth. 1981) (holding claimant's fear of losing her stenographic skills as a result of her employer gradually changing the nature of her job from secretarial tasks to clerical functions to be compelling cause for her resignation).

Here, Claimant failed to prove the first factor required to establish that she had a necessitous and compelling cause to quit her position—that “circumstances existed which produced real and substantial pressure to terminate employment.” *Brunswick Hotel*, 906 A.2d at 660. The Board, in making its credibility determinations and findings of fact, found the proposed transfer to a front-end cashier position was to a different department but at the same rate of pay. The record does not indicate that the new position required a change in working hours or workload, nor does Claimant maintain that certain skills would be diminished as a result of the change. Rather than having terminated employment based on circumstances recognized by the courts as creating real and substantial pressure, the Board determined that Claimant left work because the proposed transfer was beneath her, or, in other words, Claimant was dissatisfied with the transfer. Thus, Employer's offered transfer would not constitute a substantial unilateral change that rises to the level of cause of a necessitous and compelling nature.⁶ The Board,

⁶ Claimant states that the Department's basis for declining unemployment compensation benefits was that she did not provide a reason for her failure to accept the transfer offered. In advancing this argument, Claimant cites to Section 402(b) of the Law, but the language is actually cited from the Commonwealth of Pennsylvania website's Eligibility Information page for claimants. The information, in full, provides:

therefore, properly concluded that Claimant had not satisfied her burden that she quit for a necessitous and compelling cause.

IV. CONCLUSION

For the foregoing reasons, we affirm the order of the Board.

STELLA M. TSAI, Judge

When an employee accepts a position, he/she admits to the initial suitability of the position with respect to its wages and the conditions of employment. When a claimant quits because the job was unsuitable, the claimant must show there were changes in the conditions of employment, to which he/she did not agree upon, that made the job unsuitable, or there was deception on the part of the employer with regard to the conditions of employment at the time of hire, or he/she shall be considered ineligible.

<https://www.pa.gov/agencies/dli/resources/for-claimants-workers/benefits-information/benefit-guide/eligibility-information> (last visited on August 24, 2026). Here, it is not sufficient for Claimant to argue that there was a change in the condition of employment that she did not agree to. Claimant would fail to satisfy the test for unsuitability as her only reason provided was that the transfer was “beneath her,” which would not be a valid reason to prove unsuitability and thus fail to be a necessitous and compelling cause to quit. Moreover, the above language is not contained within Section 402(b) of the Law and is not binding on this Court’s analysis.

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ORDER

AND NOW, this 25th day of August, 2026, the order of the Unemployment Compensation Board of Review is AFFIRMED.

STELLA M. TSAI, Judge