

1501 Provisions of the Act

1501.01 Section 4(a-2)

of the Act provides, in part, that

"There shall not be considered as a day of unemployment, with respect to any employee--

"(i)

(A) subject to the provisions of subdivision (B) hereof, any of the days in the period beginning with the day with respect to which the Board finds that he left work voluntarily, and continuing until he has been paid compensation of not less than \$1500 with respect to time after the beginning of such period and before 1989 or, if any part of such compensation is paid in a calendar year after 1988, not less than an amount that is equal to 2.5 times the monthly compensation base for months in such calendar year, as computed under section 1(i) of this Act;"

"(B) if the Board finds that he left work voluntarily with good cause, the provisions of subdivision (A) shall not apply, with respect to him, to any day in a registration period if such period does not include any day which is in a period for which he could receive benefits under an unemployment compensation law other than this Act, and he so certifies. Such certification shall, in the absence of evidence to the contrary, be accepted subject to the penalty provisions of section 9(a) of this Act".

1501.02 Section 4(e)

of the Act provides that:

"For the purposes of section 4(a-2)(i) of this Act, no voluntary leaving of work shall be deemed to have been without good cause if the Board finds that such work would not have been suitable for the purposes of section 4(a-2)(ii) of this Act."

1501.03 Section 4(c)

of the Act provides that:

"No work shall be deemed suitable for the purposes of section 4(a-2)(ii) of this Act, and benefits shall not be denied under this Act to any otherwise qualified employee for refusing to accept work if--

- "(i) the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- "(ii) the remuneration, hours, or other conditions of work offered are substantially less favorable to the employee than those prevailing for similar work in the locality, or the rate of remuneration is less than the union wage rate, if any, for similar work in the locality;
- "(iii) as a condition of being employed he would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;
- "(iv) acceptance of the work would require him to engage in activities in violation of law or which, by reason of their being in violation of reasonable requirements of the constitution, by-law, or similar regulations of a bona fide labor organization of which he is a member, would subject him to expulsion from such labor organization; or
- "(v) acceptance of the work would subject him to loss of substantial seniority rights under any collective bargaining agreement between a railway labor organization, organized in accordance with the provisions of the Railway Labor Act, and any other employer."

1501.04 Section 4(d)

of the Act provides that:

"In determining, within the limitations of section 4(c) of this Act, whether or not any work is suitable for an employee for the purposes of section 4(a-2)(ii) of this Act, the Board shall consider, in addition to such other factors as it deems relevant, (i) the current practices recognized by management and labor with respect to such work; (ii) the degree of risk involved to such employee's health, safety, and morals; (iii) his physical fitness and prior training; (iv) his experience and prior earnings; (v) his length of unemployment and prospects for securing work in his customary occupation; and (vi) the distance of the available work from his residence and from his most recent work."

1502 Disqualification Period

1502.01 Beginning of period

The disqualification period provided in section 4(a-2)(i) of the Act begins with the day with respect to which the employee left work voluntarily. That is the day on which the employee absented him or herself from work, or otherwise failed to perform the duties in connection with the work.

1502.02 Ending of period

A disqualification period continues until the employee has been paid compensation of not less than 2½ times the monthly RUIA creditable compensation base with respect to time after the beginning of the period. In this connection, compensation means creditable railroad compensation, including pay for time lost, not in excess of the monthly compensation base for months in the year in which the compensation was earned. When compensation for a particular pay period brings the total creditable compensation for time after the beginning of the disqualification period to the amount needed to qualify for RUIA benefits in that base year, the disqualification period is to be considered as ending on that day of the pay period as of which the obligation to pay such compensation has arisen, regardless of when payable. (Ascertaining the exact date of the disqualification period will not be necessary in most cases. It will not be necessary, for instance, in a case in which qualifying compensation was obviously earned some time before the first day claimed after the voluntary leaving.)

1503 Conditions Under Which Disqualification Applies

1503.01 Without good cause

An employee who is found to have left work voluntarily without good cause is disqualified for unemployment benefits under the Railroad Unemployment Insurance Act throughout the disqualification period.

1503.02 With good cause

An employee who is found to have left work voluntarily with good cause is disqualified for unemployment benefits under the Railroad Unemployment Insurance Act for any day in the disqualification period which is in a registration period which includes a day in a period for which he or she could receive benefits under any other unemployment compensation law.

1504 Determining Voluntary Leaving of Work

1504.01 General

A determination as to whether an employee left work voluntarily is required when there is information (on an application or claim for unemployment benefits or from any other source) that he or she voluntarily left work, and the employee applies for benefits for days in what would apparently be the disqualification period for the voluntary leaving. A claimant's statement that he or she left work voluntarily is normally sufficient for a determination to that effect. In case of any question, the determination as to whether there was a voluntary leaving of work is to be made in accordance with principles discussed in this section.

1504.02 Work

The term "work", as used in section 4(a-2)(i), means services for hire. It refers to the particular job or position which the employee occupied at the time of his or her separation from employment, rather than to work in general. Self employment is not services for hire. Consequently, the cessation of self employment does not constitute leaving work.

1504.03 Voluntary leaving

An employee voluntarily leaves work when he or she absents himself or herself from work, under circumstances or conditions which indicate an intent or desire of the employee to terminate his or her employment relation with respect to such work.

a. Voluntary action resulting in discharge

An employee is not considered as having left work voluntarily when the employee is discharged as a result of a voluntary action on his or her part (such as theft, violation of "Rule G", etc.) unless the circumstances and conditions indicate an intent or desire of the employee to terminate the employment relation.

b. Resignation in face of threatened discharge

An employee is not considered as having left work voluntarily when he or she leaves in the face of threatened or imminent discharge unless the circumstances indicate an intent or desire of the employee to bring about a discharge and thereby terminate the employment relation.

c. Leave of absence

An employee who takes a leave of absence granted in accordance with a rule or practice recognized by the employer does not thereby leave work within the meaning of section 4(a-2)(i). (See AIM-8, "Availability for Work".) Failure to return to available work at the termination of a leave of absence does constitute leaving of work.

d. Strike

Absenting one's self from employment in concerted action with other employees as a result of a strike or other labor dispute does not constitute voluntary leaving of work.

e. Recall to railroad work

An employee is not considered as having left work voluntarily when he or she returns to a railroad job because of recall and discontinues other work in which he or she was engaged at the time of recall. An employee who does not return

to his or her railroad job when recalled is considered as having left work voluntarily.

f. Resignation while laid off

An employee who has been laid off generally does not have a job or position; that is, he or she does not have "work" within the meaning of section 4(a-2)(i). Accordingly, an employee who resigns while in furlough status is not generally considered to have left work.

g. Resignation to take severance allowance

An employee's resignation to take a severance allowance constitutes voluntary leaving of work if provisions of the agreement or plan under which the severance allowance is paid are such that the employee could have continued working for the employer in the same occupation and at the same location, with prospects for future employment not substantially diminished. Otherwise, the employee's resignation to take the severance allowance does not constitute a voluntary leaving of work.

h. Resignation in face of imminent lay off

An employee is not considered as having left work voluntarily when he or she discontinues working on one job to take another because of real and imminent prospects of being laid off the first job.

i. Non-payment of union dues

An employee is considered as having left work voluntarily when the employee is discharged, pursuant to provisions of the agreement under which he or she worked, for failure to maintain union membership by paying dues, unless the circumstances indicate that the employee did not intend to terminate the employment relation.

1505 Determination Good Cause

1505.01 General

When an employee is found to have left work voluntarily, a determination is required as to whether the leaving was with good cause. Before the determination is made, detailed information about the cause for the voluntary leaving should be obtained from both the claimant and from the firm or person whose employ he or she left. If possible, information from the claimant should be obtained by personal interview.

1505.02 Suitability of work

No voluntary leaving of work is to be considered as having been without good cause if the work would not have been suitable for the purposes of section 4 (a-2)(ii) of the Act. For discussion of the relationship between suitability and good cause, see AIM-14, "Failure to Accept or Apply for Work and Failure to Report to an Employment Office."

a. Consideration in connection with section 4(c) of the Act

An employee has good cause for leaving work which has any of the characteristics listed in section 4(c) of the Act.

b. Consideration in connection with section 4(d) of the Act

Factors listed in section 4(d) of the Act are to be considered, within the limitation of section 4(c), in determining whether the work an employee left was suitable. The length of time an employee has worked on a job is a factor to be considered. Thus, work which an employee has been performing for some time might be considered suitable even though it would not have been considered suitable at the time he or she began it. An employee should exhaust the means at his or her disposal in an attempt to obtain adjustment of a grievance, unsatisfactory working conditions, etc., prior to leaving work because of the grievance. However, if an individual accepts work, after reconsideration or after finding the work to be unsatisfactory, he or she leaves that work with good cause.

1505.03 Personal circumstances

An employee who leaves suitable work voluntarily because of personal or family circumstances may have good cause for leaving. The determination in each case depends upon the particular circumstances. (See 1505.05 below for examples of situations in which leaving is considered to be with good cause.

1505.04 Temporary circumstances

If the personal or family circumstances which cause an employee to leave work are temporary in nature, the employee does not have good cause for leaving unless it is shown that he or she had first attempted to obtain a leave of absence or the permission of his or her employer to be absent for the duration of such circumstances.

1505.05 Particular circumstances constituting good cause

Subject to the provisions of subsection 1505.04 above, an employee should be considered to have good cause for leaving work in the following circumstances. (This list is not exhaustive.)

a. Work away from home

An employee who leaves work because it requires him or her to live away from home has good cause for leaving if his or her family situation or personal circumstances are such that he or she could not reasonably be expected to continue working on the job. In the case of an employee who had worked away from home for some time there would normally have to be a showing of a change in circumstances to justify leaving.

b. Marital obligations

In general, an employee who leaves work to follow his or her spouse to a new residence leaves with good cause.

c. Sickness in family

An employee who leaves work to provide needed care for a sick member of his or her family has good cause for leaving if he or she made reasonable efforts to provide such care through other arrangements but was unsuccessful.

d. Health

An employee who leaves work because his or her health does not permit performance of the duties of the job, or because continued performance of the duties of the job would be dangerous to his or her health, leaves with good cause.

e. Leaving to take another job

An employee who leaves one job because he or she has obtained another which appears to offer reasonable assurance of continued employment leaves with good cause. An employee who leaves one job to look for another, however, does not have good cause for leaving unless it is shown that he or she could not look for another job without leaving work and there is a reasonable basis for the employee to believe that he or she could obtain a better job.

f. Lack of transportation to work

An employee who leaves work because of lack of transportation to the job leaves with good cause. Thus an employee who had been driving his or her car to work but could no longer do so would have good cause for leaving work if no other satisfactory transportation was available.

g. Resignation in return for cash settlement

An employee who resigns as a condition of receiving a cash settlement of a personal injury claim leaves work with good cause.

h. Resignation to take severance allowance

An employee who is considered to have left work voluntarily because he or she resigned to take a severance allowance should ordinarily be considered to have good cause for the leaving. If circumstances of a particular case raise a question as to whether there was good cause, the case should be submitted to the Office of Programs, Sickness and Unemployment Benefits Section (SUBS) for advice.

i. Leaving work to attend school

An employee who leaves work to attend school has good cause for leaving if it would not have been possible for him or her to attend school without leaving work and there is reasonable basis for hoping that the schooling would improve his or her economic or social status.

j. Leaving work to take annuity

An employee who leaves work for the purpose of receiving an annuity leaves with good cause. (See AIM-8, 32 and 33 with respect to eligibility of retired employees.)

1506 Determining Whether Claimant Could Receive Other Benefits

1506.01 General

When an employee is found to have left work voluntarily with good cause, a determination is required as to whether he or she could receive benefits under an unemployment compensation law other than the Railroad Unemployment Insurance Act. Generally, consider that an employee could receive benefits under another unemployment compensation law if he or she had the employment required to be qualified under the other law and there is no indication that he or she is not eligible to receive benefits under that law. Thus, a claimant who had left work voluntarily with good cause and who was qualified under a state unemployment compensation law would normally have to exhaust his or her rights under that law before railroad unemployment benefits could be paid in the disqualification period.

1506.02 Guidelines for determinations

A certification from the employee respecting rights to benefits under other unemployment compensation laws is required. Such a certification is normally obtained through completion of Form UI-45, Claimant's Statement - Voluntary Leaving of Work. Except as indicated below, an employee's certification is to be accepted as sufficient evidence for a determination as to whether he or she could receive benefits under another unemployment compensation law.

- a. When an employee certifies that he or she does not have the qualifying work to receive benefits under another unemployment compensation law, the certification, in the absence of evidence to the contrary, is sufficient for a determination that he or she could not receive benefits under another law. If there is evidence to the contrary, such as a work history which indicates that the employee is likely to be qualified for benefits under another law, consider that the employee could receive benefits under that law. Such a determination should, of course, be reversed if it is later established that the employee is not, in fact, qualified.
- b. When an employee certifies that he or she had the qualifying work to receive other benefits, but has exhausted rights to benefits under another law, the employee should be asked for supporting evidence. An exhaustion notice or letter from the state agency indicating that the employee had exhausted rights is sufficient evidence that he or she could not receive unemployment benefits under that law.
- c. When an employee certifies that he or she had the qualifying work to receive, and has not exhausted rights to, benefits under another law, and there is no indication that benefits under that law have been denied for any other reason, consider that the employee could receive benefits under that law.
- d. When an employee certifies that he or she had the qualifying work to receive and has not exhausted rights to benefits under another law, but states that benefits have been denied for some other reason, the employee should be asked for evidence as to the denial. If evidence is submitted showing that benefits have been denied, consider that the employee could not receive benefits under the other law. (Exception: If benefits were denied on the grounds that the employee did not make a timely claim but it appears that he or she could have received benefits if the employee had applied for benefits when advised to do so by an RRB office, the case should be submitted to SUBS through Field Service (FS) for advice.)

1506.03 "Waiting period" under other laws

Railroad unemployment benefits should not be paid for days in a period which an employee has claimed benefits under another unemployment compensation law and the claims has been determined to be a "waiting period" under that law. Payment of RUIA benefits would presumably cancel the waiting period credit.

1507 Field Service Authority

Field Service is authorized to make determinations under section 4(a-2)(i) of the Act. This includes determining whether an employee left work voluntarily, whether an employee who left work voluntarily had good cause for leaving, and

whether an employee who left work voluntarily with good cause could receive benefits under an unemployment compensation law other than the Railroad Unemployment Insurance Act. Any difficult or questionable case should be referred to FS for advice.

