

No. 32509 – *Cindy L. Adkins, Cynthia S. Cooper and Billie J. Gill v. Cathy S. Gatson, Clerk of the Circuit Court of Kanawha County; Board of Review, West Virginia Bureau of Employment Programs; Commission, Bureau of Employment Programs; City of Hinton*

FILED

December 15, 2005

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RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

Starcher, J., dissenting:

I dissent to this Court's majority opinion and decision in the instant case. I would uphold the decision of the Board of Review.

I would uphold the Board because it has a particular experience and expertise in this area. It can better weigh the equities and consider them in light of rulings in similar cases. The Board is entitled to deference, and the majority opinion simply does not give that deference.

Also, I think these employees clearly left work for reasons involving fault by their employer. The City hired someone who showed appallingly bad judgment and acted out in a dangerous manner at work. The City was responsible for his hiring and his conduct.

Did the employees who quit have a good reason for continued "fear" on the job? Maybe not – but who cares? Their terrifying experience was enough to sour them on the job, so they quit. And their terrifying experience was clearly the City's fault.

If we allow an employee to quit a job because his or her hours are cut back, and then to apply for and receive unemployment – and we do – then we must allow the same right to an employee who quits because he or she is subjected to terror at work.

Accordingly, I dissent.