

2913

LILLY S. GRUBER,
Appellant,
vs.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY.

DEPARTMENT OF INDUSTRIAL
RELATIONS OF THE STATE OF
ALABAMA, and H. C. JORDAN,
M. D., doing business as
Jordan's Clinic
Appellees.

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN
EQUITY, AND TO THE HONORABLE TELFAIR J. MASHBURN, JR., JUDGE THEREOF:

Comes now Lilly S. Gruber, by her attorneys, and files
this her notice of appeal from the decision of the Board of Appeals
of the State Department of Industrial Relations, rendered on the
1st day of October, 1952, and submitted to the Appellant on October
7, 1952, and respectfully represents and shows unto your Honor and
unto this Honorable Court as follows:

FIRST: That she appeals from the decision of the Board of
Appeals of the Department of Industrial Relations on the ground
that said decision is erroneous in that she did not leave her em-
ployment with Jordan's Clinic without good cause connected with
her work.

SECOND: That she has exhausted all of her administrative
remedies under the applicable law and statutes of the State of
Alabama relative to unemployment compensation.

THIRD: That she has mailed two (2) copies of this notice
of appeal by registered mail, addressed to the Director of the
Department of Industrial Relations, Montgomery, Alabama.

WHEREFORE, the premises considered, your Petitioner prays
that your Honor will fix a date for the hearing of this appeal and
that notice of the day so set be given to the Director of the
Department of Industrial Relations and to said department.

Respectfully submitted,

CHASON & STONE

BY: 
Attorneys for Appellant.



STATE OF ALABAMA
DEPARTMENT OF INDUSTRIAL RELATIONS
UNEMPLOYMENT COMPENSATION AGENCY
MONTGOMERY

JOE L. COLEMAN
DIRECTOR OF INDUSTRIAL RELATIONS

January 7, 1953

Clerk
Circuit Court of Baldwin County
Bay Minette, Alabama

Dear Sir:

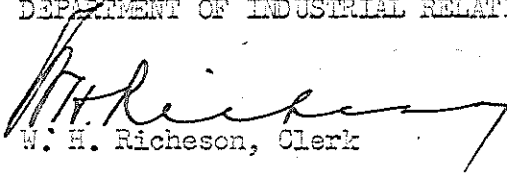
In accordance with Section 221, Title 26, Code of Alabama 1940, as amended, I am enclosing copies of papers and documents heretofore introduced in evidence in Re Claim of Lilly S. Gruber, SS # 551-16-4390.

Please enter the names of Messrs. J. Eugene Foster and Richard S. Brooks as attorneys for the Director of Industrial Relations in this case, and notify them as to when any hearings will be held.

Since said Section 221 requires the Board to enter an order in accordance with the final determination of the judicial proceedings, it is requested that you advise the Board of this determination.

Sincerely yours,

BOARD OF APPEALS
DEPARTMENT OF INDUSTRIAL RELATIONS


W. H. Richeson, Clerk

Enclosure

cc: Lilly S. Gruber
Messrs. Chason & Stone, Attys for claimant
Jordan's Clinic

Filed 1-7-53

STATE OF ALABAMA
DEPARTMENT OF INDUSTRIAL RELATIONS
UNEMPLOYMENT COMPENSATION AGENCY
MONTGOMERY, ALABAMA

Docket #830

Decision #860 AT-52

DECISION ON CLAIMANT'S APPEAL

CLAIMANT:

Lilly S. Gruber
SS# 551-16-4390
Route 1, Box 139-A
Fairhope, Alabama

Hearing: Mobile, Alabama
On: May 13, 1952
Ala. U. C. Law: Sec: 214-B

EMPLOYER:

Jordans Clinic
Fairhope, Alabama

APPEARANCES: The claimant and an employer representative were present.

ISSUE: Voluntarily leaving employment without good cause connected with the work.

FINDINGS: The claimant appealed an Agency determination denying benefits because she voluntarily left employment on October 31, 1951, without good cause connected with the work. As ground for appeal, the claimant stated that she did not leave voluntarily as she was hired to work at Robertsdale, Alabama, but was transferred to Fairhope, Alabama.

The claimant was employed as a nurse in the employer's clinic. She worked for the employer on several occasions. On the last time she was hired, she was assigned to work at Robertsdale. After working there approximately one year and nine months, she was transferred to work at Fairhope, Alabama. At the present time she lives approximately five miles from Fairhope and seven miles from Robertsdale. She testified that she asked for a transfer back to her original place of employment and was told that she would not be transferred because she was needed at her present place of employment. The claimant's employer appeared and testified that no individual is hired for any particular job. The clinics at Robertsdale and Fairhope are considered one organization. He denied that he promised the claimant that she would be permanently assigned to work at Robertsdale. The claimant gave as her main reason for not continuing her work at Fairhope that she did not like to work at nights, did not like the type of work assigned to her, and could not get along with one of the physicians assigned to that particular clinic. She admitted that she quit her job for these reasons.

CONCLUSIONS: This claimant voluntarily left her employment in October 1951 because she was dissatisfied with her assignment and because her employer refused to transfer her back to her original place of employment. She complained about the type of work assigned to her, but in the referee's opinion does not show that she was assigned work which is not regularly performed by nurses employed under the conditions as existed in this case. The claimant lives approximately five miles from both places of employment. Apparently she could travel to either point without any undue hardship. Under the circumstances in this case, it is concluded that the claimant was not unduly discriminated against and that she was assigned to work for which she was qualified and apparently the employer had reserved the right to assign any individual to any job on which she was needed and at either location. It is concluded, therefore, that the claimant voluntarily left her employment without good cause connected with the work.

DECISION: The claims examiner's determination is affirmed.

DECISION DATED: May 15, 1952
DECISION MAILED: May 21, 1952
APPEAL RIGHTS EXPIRE: May 31, 1952
SMC:mlm:bsm

S. M. Chaffin, Jr.
S. M. Chaffin, Jr., Appeals Referee

CLAIM OF: Lilly S. Gruber
SS# 551-16-4390
Route 1, Box 139-A
Fairhope, Alabama

APPEARANCES: Claimant and
Employer

HEARD AT: Mobile, Alabama
ON: May 13, 1952

DOCKET # 830

S. M. Chaffin, Jr., Appeals Referee

Claimant and employer were duly sworn.

Questions by the Referee.

REF: I have read the statements in the file, Dr. Jordan, will you go ahead and summarize what happened in this case.

EMP: Well, in the first place, let me say that the office in Robertsdale is part of the Jordan Clinic; in other words we have several doctors on our staff. That is another office we maintain there. We hire no individual and freeze them to any one particular spot. She said in her statement, whenever it got slack over there, by the reason of the fact that we didn't have a doctor to cover that place, we brought her in to Fairhope where there was more work and we could keep her employed. Since that time I have had to employ another individual and put her up there and keep her there. The doctor that was in charge at the time Gruber was there is no longer with us. However, as I say, that is part of one organization and it is not possible to freeze any one individual to any one job. In an institution as small as we have, you just can't do it. There is work available in Fairhope now for her anytime we can get her, be very happy to have her, but I can't put her back at Robertsdale. I have a young lady employed there that lives there and there is no vacancy there.

REF: The main contradiction, so far, in this case is that according to this statement here, which I will ask her to review, was that she was promised

work at Robertsdale. Your statement is that you don't hire people for any one position?

EMP: I can't hire anybody for any one particular place. I try my best to keep them where they are happiest.

REF: It is a common occurrence to interchange those people from one place to another?

EMP: At intervals, yes.

REF: As you need them?

EMP: Yes.

REF: Mrs. Gruber, before I ask you about the reason for leaving this job, can you tell me how long you did work in Robertsdale? You were first hired in Robertsdale?

A. I was first hired in Robertsdale while Dr. Childerson was working out there and it was 1950.

Q. Just about how long did you work there?

A. About 9 months.

Q. Now you were transferred to Fairhope, how long did you work in Fairhope?

A. I worked there about three months.

Q. When you were transferred, what reason was given to you as to why you were transferred?

A. Well, Dr. Brown said that he needed an extra Technician. I was doing the lab work, and as I couldn't do extra work, I agreed that I would go over and work at Jordan's Clinic until the work picked up. He hired Mrs. Payne there and when Mrs. Payne left, the X-Ray Technician, he hired the nurse that didn't do either X-Ray or lab work. I asked Dr. Jordan if I could go back - well, he was angry with me, said I could never go back to Robertsdale.

Q. Did he give you any reason for that?

A. No, he didn't. Only that the nurse he hired was young and had to have her fling and that she lived in Robertsdale. I felt that I had worked over there almost 2 years and I had preference.

Q. You stated when you filed this appeal that "I didn't quit voluntarily."

A. No I didn't because I talked to Dr. Jordan about it.

Q. You were assigned to Fairhope at the time you stopped working?

A. Yes.

Q. Did Dr. Jordan or anyone else with Jordan's Clinic tell you you were discharged?

A. No.

Q. Why do you say that you didn't quit then if they didn't discharge you?

A. Because I asked to go back to my job at Robertsdale and he said I could not have it back.

Q. Mrs. Gruber, were you promised full-time employment in Robertsdale at the time you were hired?

A. Yes I was. I was hired from 9 to 5, five days a week.

Q. Were you promised by Dr. Jordan or anyone else that you would be permanently assigned to Robertsdale?

A. I had worked for Dr. Jordan at Fairhope several times, and I quit on several occasions because I never could get along there and I felt that I could work successfully.

Q. Is that the reason that you didn't want to continue working at Fairhope?

A. Yes.

Q. Who was it you couldn't get along with?

A. It wasn't my type of work because I was doing office work in Robertsdale, in Fairhope it was nights and whatever anybody else wouldn't do I had to do.

Q. One other question in connection with your employment here, I notice your full address is Route 1, Box 139-A, Fairhope. How far do you actually live from Fairhope?

A. Five miles.

Q. How far do you live from Robertsdale? I'm not exactly familiar with those distances.

A. I guess it's about seven.

Q. In other words, you live almost halfway.

A. Yes, sir.

Q. You can get into Fairhope as easily as you can Robertsdale?

A. Yes, but I lived further from Robertsdale when I was hired, I lived 16 miles because I lived in Daphne when I was hired in Robertsdale.

Q. Let me ask you one other question, what was your main reason for not wishing to continue your work in Fairhope?

A. Well, it was nights and I can't do all nights.

Q. Do you have any further statement you'd like to give?

A. I didn't prefer to work for six days a week and Fairhope was six days a week.

Q. And Robertsdale?

A. Five.

Q. Any other reason for discontinuing your employment at Fairhope?

A. I couldn't get along with one of the doctors.

Q. Any further statement, please?

A. No.

Q. How about you, Doctor?

EMP: In the first place Mrs. Gruber is not available at all times by reason of the fact that her husband is a seaman and she has to go and visit with him when he is port and he asks for it. That was understood at the time she was hired. She has never been regular on any of her employment at any time. He will be at sea and he will wire her that he will be in New Orleans wherever he happens to be and she goes. The situation at Robertsdale was not satisfactory as she said, by reason of the fact, that she could not handle the X-Ray work there and it was necessary to put somebody else there. However, she can work in two capacities; that is as the Technician in other than an X-Ray Technician, and as a nurse. Therefore, she has two shots at this thing and I would be very happy to get her in any either capacity at the office in Fairhope. I cannot employ her in the office in Robertsdale. As I say, this is one organization

and no individual is frozen to any one particular shift. The idea is not to give her the shift that nobody else will have, but to give her whatever shift that happens to come up. She has had the day shift much more than she has ever had the night shift. The fact of the matter is, at the time she was at Robertsdale, no doctor was there. Therefore, there was nothing to it except to be there and be available. We simply maintained that office in an effort to keep the doors open. When Dr. Brown came in there and the work became heavy, it became necessary to transfer her. The work at Fairhope is not so heavy because we have one Technician there already. She can work at the office in Fairhope, at the hospital, anytime she wants to go to work.

Q. Will that be day or night work, Doctor?

A. Either one.

Q. How about that, Mrs. Gruber?

A. No, we won't get along.

REF: I don't have any further questions.

CASE ADJOURNED

I HEREBY CERTIFY that the foregoing is a true and correct transcript of testimony taken from the Dictaphone to the best of my ability.

Edna B. Purcell
Edna B. Purcell
Clerk-Typist II

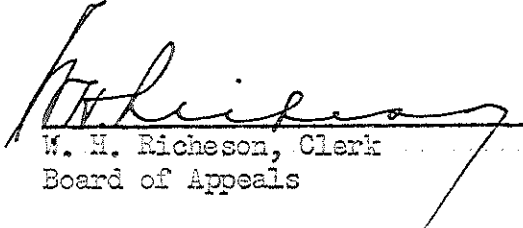
I HEREBY CERTIFY that the proceedings transcribed herein above are true and correct.

S. M. Chaffin, Jr.
S. M. Chaffin, Jr.
Appeals Referee
Dept. of Industrial Relations
State of Alabama

CERTIFICATE

I HEREBY CERTIFY that the attached file contains copies of papers and documents heretofore introduced in evidence in the case of Lilly S. Gruber, SS # 551-16-4390.

Done this 7th day of January 1953.


W. H. Richeson, Clerk
Board of Appeals

copy

LILLY S GRUBER,
Appellant,
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DEPARTMENT OF INDUSTRIAL
RELATIONS OF THE STATE OF
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WHEREFORE, the premises considered, your Petitioner prays that your Honor will fix
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Respectfully submitted,

GHASON & STONE

BY: Norborne C. Stone
Attorneys for Appellant.

Filed: October 22, 1952 Norborne C. Stone