STATE OF WISCONSIN	CIRCUIT COURT	DANE COUNTY
#145-357 DANIEL F. SCHENSKY, d/b/a SCHENSKY BUILDERS, Plaintiff, vs DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS and DORAN W. REINSVOLD, Defendants.	*	MEMORANDUM OPINION

Doran Reinsvold worked as a carpenter for plaintiff Daniel Schensky. On June 18, 1974, Schensky told him that his wages had been reduced, retroactively, from $7.45 to $6.50 per hour. The wage reduction amounted to 12.75% of the former wage, and, on the basis of a 40-hour week, would have reduced Reinsvold's monthly income by $158.00. Reinsvold quit in response to the reduction, and filed a claim for unemployment benefits. Schensky opposed the claim on the ground that Reinsvold had not quit for good cause attributable to the employer, contending that the wage reduction resulted from Reinsvold's drinking on the job. The Department found the employee eligible for benefits; the employer seeks review of that determination.

An employee who voluntarily quits his job is ineligible for unemployment benefits unless "the department determines that the employee terminated his employment with good cause attributable to the employing unit." Sec. 108.04(7)(b) Stats. To constitute "good cause," the employee's reason for quitting must relate to some real, substantial and unreasonable act or omission on the part of the employer. Kessler v. Ind. Comm., 27 Wis. 2d 398 (1965); Piotrowski v. DILHR and City of Milwaukee (Dane County Circuit Court #141-186, Reserve Circuit Judge George Currie, April 30, 1974).

To constitute "good cause" for leaving a job, a reduction in wages must be "substantial." See for instance Case #59-C-43, 1960 Wis. U.C. Digest 685. Plaintiff's support of a per se rule defining a "substantial" pay cut as one amounting to 20% or more of the former wage notwithstanding, there is no clear-cut answer to the question, "How much is substantial?" It is safe to say that a pay cut of 3 1/2¢ per hour amounting to 2% of the previous wage is not substantial. Hessler v. American Television and Radio Co., 104 N.W. 2d 876 (Minn., 1960). It is equally safe to say that a pay cut of $42.00 per week amounting to 60% of the former salary is substantial. Snyder v. Unemployment Compensation Board of Review,

169 A. 2d 578 (Pa. Super., 1961). Between such extremes, the percentage cut, the employee's actual dollar loss, and the surrounding circumstances are all relevant factors for the Department to consider. In considering a 12.75% pay cut which could cost the employee $158.00 over a full working month to be substantial, the Department did not act arbitrarily, capriciously, or without a reasonable basis so as to require reversal by the reviewing court. Since the conclusion that the pay cut was substantial is necessarily implicit in the Department's determination that Reinsvold quit with good cause, no recitation of that conclusion in a separate finding of fact is necessary to support its determination.

Even a substantial wage cut will not constitute good cause in most cases unless the cut was arbitrary or unreasonable. From the facts that the cut was announced by Schensky without prior warning and made retroactive, the Department could reasonably conclude that his action was arbitrary. Given that the employer was unable to show by direct evidence that Reinsvold was drinking on the job, the Department was reasonably able to conclude that the employer acted unreasonably in cutting Reinsvold's wages. The evidence showed that Reinsvold sometimes had a beer in his car during lunch breaks and that he drank at a family reunion. Except insofar as the employer's witnesses' suspicions and inferences became a part of the record, there was no evidence that reinsvold drank on company time or that drinking affected his performance as a carpenter in any tangible way.

The credibility of the witnesses and the weight of the testimony are matters within the exclusive province of the Department. Neff v. Ind. Comm., 24 Wis. 2d 207 (1964). The Court finds no basis for upsetting the Department's finding that the wage cut was arbitrary and unreasonable.

The Department could properly determine that Reinsvold left his job for good cause attributable to his employer.

Counsel for the Department may draft the appropriate Judgment, submitting the same to opposing counsel ten days before presenting it to the Court for signature.

Dated: May 16, 1975.

BY THE COURT:

/s/NORRIS MALONEY
NORRIS MALONEY, CIRCUIT JUDGE