



1 injury to his back arising out of and occurring in the course of  
2 his employment with Mike's Trucking.

3 Defendants asserted that applicant's claim was barred by  
4 Labor Code section 3600(a)(10) (hereinafter "section  
5 3600(a)(10)"), which provides:

6 "(10) Except for psychiatric injuries  
7 governed by subdivision (e) of Section 3208.3,  
8 where the claim for compensation is filed  
9 after notice of termination or layoff,  
10 including voluntary layoff, and the claim is  
11 for an injury occurring prior to the time of  
12 notice of termination or layoff, no  
13 compensation shall be paid unless the employee  
14 demonstrates by a preponderance of the  
15 evidence that one or more of the following  
16 conditions apply:

17 "(A) The employer has notice of the injury,  
18 as provided under Chapter 2 (commencing with  
19 Section 5400), prior to the notice of  
20 termination or layoff.

21 "(B) The employee's medical records,  
22 existing prior to the notice of termination or  
23 layoff, contain evidence of the injury.

24 "(C) The date of injury, as specified in  
25 Section 5411, is subsequent to the date of the  
26 notice of termination or layoff, but prior to  
27 the effective date of the termination or  
layoff.

"(D) The date of injury, as specified in  
Section 5412, is subsequent to the date of the  
notice of termination or layoff. "For  
purposes of this paragraph, an employee  
provided notice pursuant to Sections 44948.5,  
44949, 44951, 44955, 44955.6, 72411, 87740,  
and 87743 of the Education Code shall be  
considered to have been provided a notice of  
termination or layoff only upon a district's  
final decision not to reemploy that person.

"A notice of termination or layoff that is  
not followed within 60 days by that  
termination or layoff shall not be subject to  
the provisions of this paragraph, and this  
paragraph shall not apply until receipt of a

1 later notice of termination or layoff. The  
2 issuance of frequent notices of termination or  
3 layoff to an employee shall be considered a  
bad faith personnel action and shall make this  
paragraph inapplicable to the employee."

4 The WCJ held that applicant's claim was not barred by section  
5 3600(a)(10). He concluded that that statute applies to instances  
6 when the employer gives notice of termination or layoff, but not  
7 to those instances when the applicant simply quits. We agree.  
8 (See also Helmsman Management Services v. WCAB (Kim) (1998) 63  
9 Cal.Comp.Cases 858, writ denied).

10 Defendants contend that the legislative intent behind section  
11 3600(a)(10) is to prevent disgruntled employees from filing false  
12 claims against employers after the employment ends, including  
13 those situations in which employees "become so fed up with their  
14 employment situation that they simply quit." (Petition, p.3.)  
15 Defendants further argue that such a legislative intent is evident  
16 in the plain language of the statute.

17 Our reading of section 3600(a)(10) differs from that of  
18 defendants. The statutory phrase "voluntary layoff" does not have  
19 a plain meaning synonymous with the common terms "resignation" and  
20 "quit." If the Legislature had intended such a meaning, it could  
21 have clearly expressed it by using one of these common terms. In  
22 our view, in using the less common term "voluntary layoff," the  
23 Legislature intended those situations in which the employer  
24 provides notice that one or more employees will be laid off, but  
25 allows some mechanism for employees to volunteer to be the  
26 specific individual(s) to be laid off.

1           Moreover, in DuBois v. WCAB (1993) 5 Cal.4th 382, 58  
2 Cal.Comp.Cases 286, 289, the Supreme Court explained that in  
3 construing a statute:

4  
5           "[W]e must consider the . . . quoted sentence in  
6 the context of the entire statute . . . and the  
7 statutory scheme of which it is a part. We are  
8 required to give effect to statutes according to  
9 the usual, ordinary import of the language  
10 employed in framing them. [Citations.] . . .  
11 If possible, significance should be given to  
12 every word, phrase, sentence and part or an act  
13 in pursuance of the legislative purpose.  
14 [Citation.] . . . . When used in a statute  
[words] must be construed in context, keeping in  
mind the nature and obvious purpose of the  
statute where they appear. [Citations.]  
Moreover, the various parts of a statutory  
enactment must be harmonized by considering the  
particular clause or section in the context of  
the statutory framework as a whole.  
[Citations.]" (Internal quotation marks and  
citations omitted.)

15           In applying these principles of construction, we note that  
16 section 3600(a)(10) repeatedly employs the phrase "notice of  
17 termination or layoff" in contexts limited to notice from the  
18 employer to the employee. One such context pertains to notice  
19 pursuant to provisions of the Education Code. Another is the  
20 provision that: "The issuance of frequent notices of termination  
21 or layoff to an employee shall be considered a bad faith personnel  
22 action and shall make this paragraph inapplicable to the  
23 employee." In no instance does the statute mention such a notice  
24 from the employee to the employer.

25           We conclude from the language and structure of the statute  
26 that the legislative intent was to prevent employees and former  
27 employees from filing false claims in retaliation for being

1 terminated or laid off. By its terms, the statute would cover  
2 those employees personally targeted for termination or layoff, as  
3 well as those volunteering to be laid off in an employer-initiated  
4 reduction in force directed at a class or category of employees.

5 Our conclusion that "voluntary layoff" is not synonymous with  
6 "quit" or "resignation" is consistent with similar terminology in  
7 Unemployment Insurance Code section 1256, which provides in part:

8 "An individual is disqualified for  
9 unemployment compensation benefits if the  
10 director finds that he or she left his or her  
11 most recent work voluntarily without good  
12 cause or that he or she has been discharged  
13 for misconduct connected with his or her most  
14 recent work.

15 . . .

16 "An individual shall be deemed to have  
17 left his or her most recent work with good  
18 cause if he or she elects to be laid off in  
19 place of an employee with less seniority  
20 pursuant to a collective bargaining agreement  
21 that provides that an employee with more  
22 seniority may elect to be laid off in place of  
23 an employee with less seniority when the  
24 employer has decided to layoff employees."  
25 (Emphasis supplied.)

26 Thus, an employee who simply quits without good cause is not  
27 eligible for unemployment compensation, but an employee who is  
laid off is eligible, and under the prescribed circumstances  
eligibility extends to an employee who "elects" to be laid off.  
In Stanford v. Unemployment Insurance Appeals Board (1983) 147  
Cal.App.3d 98, an employee elected to be laid of in place of a  
less senior employee under the terms of a collective bargaining  
agreement, but was denied benefits because the employer reported  
the reason for unemployment as a "voluntary layoff." Id., 147  
Cal.App.3d at 101. The court stated:

1 "We hold the layoff, although in a sense  
2 voluntary, was with good cause within the  
3 meaning of section 1256.

4 . . .

5 "In the instant case, we hold the  
6 instigating cause for Stanford's termination  
7 of employment was the employer's announced  
8 mandatory layoff. Stanford's rights under the  
9 collective bargaining agreement to elect a  
10 substitutionary layoff did not arise until  
11 after the employer had already determined that  
12 a mandatory layoff would be made. Then, and  
13 only then, did he exercise the limited right,  
14 within the bounds of the collective bargaining  
15 agreement, to elect a substitutionary layoff."  
16 (Id., 147 Cal.App.3d at 102.)

17 While there is nothing in Labor Code section 3600(a)(10)  
18 limiting the phrase "voluntary layoff" to a collective bargaining  
19 context, neither is there any language suggesting a legislative  
20 intent to include within that phrase every voluntary resignation.  
21 Therefore, we conclude that in enacting that statute, the  
22 Legislature intended to make a distinction between layoffs and  
23 resignations similar to that expressly set forth in the  
24 Unemployment Insurance Code.

25 We will therefore affirm the WCJ's decision.

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For the foregoing reasons,

IT IS ORDERED that the Findings and Order filed March 9, 1998, be, and it is hereby, AFFIRMED and ADOPTED.

WORKERS' COMPENSATION APPEALS BOARD

/s/ Richard P. Gannon

I CONCUR:

/s/ Arlene N. Heath

/s/ Douglas M. Moore, Jr.

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 28, 1998

SERVICE BY MAIL ON SAID DATE TO ALL PARTIES AS SHOWN ON THE OFFICIAL ADDRESS RECORD EXCEPT LIEN CLAIMANTS.

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