

NATIONAL REJECTORS INDUSTRIES *v.*
Charles L. DANIELS, Director of Labor,
and Gerald POPLIN

E 80-282

613 S.W. 2d 611

Court of Appeals of Arkansas
Opinion delivered April 8, 1981

1. EMPLOYMENT SECURITY — UNEMPLOYMENT BENEFITS — ABROGATION OF EMPLOYMENT AGREEMENT — FINDINGS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE. — Where the employment agreement between claimant and his employer was that claimant would work in Texas and Louisiana and live within 50 to 60 miles from Houston, but claimant quit his job because he was not allowed to live in Nacogdoches, over 140 miles from Houston, *beld*, the decision of the Arkansas Board of Review that the employer abrogated its work hire agreement with claimant, which was good cause for him to quit, is clearly erroneous and not supported by substantial evidence.
2. EVIDENCE — JUDICIAL NOTICE — DISTANCE BETWEEN CITIES. — The court will take judicial notice of the distance in miles between the city limits of two cities.

Appeal from Arkansas Board of Review; reversed and remanded.

No briefs filed.

TOM GLAZE, Judge. The employer, National Rejectors Industries (NRI) brings this appeal from the Board of Review's decision that the claimant, Gerald Poplin, is entitled to unemployment benefits. The Board found that when Poplin was hired, he was told by NRI that he could live in the Nacogdoches, Texas, area; however, when he arrived at Houston, Texas, to start his job, Poplin's supervisor informed him that he must live in Houston proper. Shortly thereafter, Poplin quit his job, and the Board held NRI abrogated its agreement with Poplin, which was good cause for Poplin to quit.

The findings of the Board are not consistent with the

evidence. Nowhere in the record does it appear that NRI and Poplin agreed that he could live in the Nacogdoches area. Poplin testified that he was hired to work in Texas and Louisiana and live within fifty to sixty miles of Houston. He testified further that Nacogdoches is approximately seventy-five miles from Houston, and his wife's employer had a plant in Nacogdoches to which she could be transferred. Apparently, Poplin was unaware of the correct distance between Houston and Nacogdoches, and we take notice that the mileage between the city limits of these two cities is in excess of one hundred forty miles. This mileage is almost twice the mileage to which Poplin testified and is more than twice the fifty or sixty mile distance to which the parties agreed before Poplin was hired.

From the facts before us, including Poplin's own testimony, we must conclude that the Board's finding that NRI abrogated its work hire agreement with Poplin is clearly erroneous and not supported by substantial evidence. We, therefore, reverse the Board's decision and remand with directions to disallow benefits to the claimant.

Reversed and remanded.
