

Untitled

Wisconsin. Unemployment Compensation Division. "Transcripts of hearings (Appeal Tribunal), 1936-1978, 1982." series 1013.

One of the duties of the Wisconsin Industrial Commission was to decide whether workers were entitled to unemployment compensation. workers who had been denied it could appeal the decision at hearings, and the transcripts of those hearings reveal many details about working conditions. They also preserve the words of working-class people who never wrote books, published articles in magazines, or appeared in the newspaper. Linked below are transcripts of three hearings from the 1930s and 1940s in which women workers explain why they believe they deserved unemployment compensation. They are Barbara Schneider, a Milwaukee laundry worker who lost her job in 1938 over child care issues (hearing 1234), Claire Kelly, a "cigarette girl" in Milwaukee Hotels discharged in 1941 (hearing 3446), and Betty Beckley, a Milwaukee hotel maid who lost her job in 1941 (hearing 3588). Each discloses many facts about wages, hours, duties, power relations, and other aspects of daily life for women in working-class jobs.

BEFORE THE
INDUSTRIAL COMMISSION OF WISCONSIN
UNEMPLOYMENT COMPENSATION DEPARTMENT

[1938]

In the matter of the claim of	:	
BARBARA SCHNEIDER,	:	
	:	
Employee, Respondent,	:	
	:	
against	:	Hearing No. 1234
	:	
The unemployment reserve account of	:	
NORTH AVENUE FAMILY LAUNDRY,	:	
	:	
Employer, Appellant.	:	

Pursuant to notice, this matter came on for hearing before the Industrial Commission of Wisconsin at Milwaukee, Wisconsin, on the 4th day of October, 1938, at 9:00 A.M.

APPEAL BOARD:

Arnold J. Spencer, Commission Examiner.
W. E. Schroeder, Representative of Employers.
William Cooper, Representative of Employees.

APPEARANCES:

The employee appeared in person.
The employer appeared by Nathan Stein, General Manager.

WHEREUPON, the following proceedings were had:

MR. SPENCER, Examiner: From the record it appears that the employee last worked for the employer in the week ending April 30, 1938. The employee made a claim for unemployment compensation benefits. The employer denied benefits on the ground that the employee quit. The employee denied that she voluntarily left her employment. The initial determination of the deputy overruled the employer's

denial and allowed benefits on the ground that no voluntary leaving of employment without good cause attributable to the employer or misconduct connected with employment has been established. The employer appealed from that determination.

The only question involved in this case is whether or not the employee quit her employment. Is that your contention, Mr. Stein?

MR. STEIN: My contention is that she quit.

EXAMINER: Your contention is that she quit. Do you understand the issue involved here, Miss Schneider?

MISS SCHNEIDER: Yes.

EXAMINER: All right, Mr. Stein, we will hear your testimony first, or from your witness. Do you wish to testify?

MR. STEIN: Yes.

NATHAN STEIN,
Called as a witness for the appellant, having been
first duly sworn, on oath testified as follows:

EXAMINATION BY EXAMINER:

Q Your name is Nathan Stein?

A Yes.

Q And you are general manager of the North Avenue Family Laundry?

A Yes.

Q Is the Family Laundry engaged in retail laundry work, or how would you explain the type of business they do?

A Family laundry work, that is all.

Q And what type of work was Barbara Schneider performing?

A She was a shirt finisher.

Q And how long did she work for the company?

A Well, she worked off and on till she quit. I don't remember.

Q You can use the records to refresh your memory.

A She started to work and quit and came back and quit, that is the way she has been going.

Q She has been working intermittently for the company for about three years?

A I think so. I have got the records over here on that.

Q Do you recall the last day on which the employe worked for the company?

A I think it was sometime in April.

Q If you can't testify to some of this --

A I can't remember all the days.

Q We can have your other witness testify. In your recollection, the last day she worked was in April, 1938?

A Yes.

Q Do you know why she left her employment?

A Well, she didn't show up for work for several days and I told her, "Listen, it's got to be one thing or the other -- either you have got to work steady or I'll have to look for somebody else." That was on Tuesday, and she told me at night before she left she would rather quit, so that's all.

Q She told you Tuesday that she was going to quit?

A Yes.

Q Will you give the complete conversation that took place at that time?

A Well, I told her --

Q That was the only statement she made to you?

A I talked to her in the morning and told her, "Barbara, you have been late every morning and didn't show up part of the time. You have got to learn this, you have got to work steady or I will have to put somebody else to work." At night before she left she told me she was quitting. That's all I know, and our records prove that.

Q Did she work the full day and then tell you she was leaving, that she was going to quit?

A I think so. I would have to see the records.

Q Well, you don't have to see the records in order to testify to that, do you?

A I think she worked all day. I don't remember.

Q The records won't show?

A The time cards will show. I have got everything here.

Q Will you get your records and testify from them?

A She came in -- she only worked a half a day. That is why the whole argument was. Here is the time cards. Here are the other weeks when she has been working.

Q From your time cards how many hours did the employee work the last day that she worked in April?

A The last day, she worked from 12:59 up to 4:46.

Q And what day was that?

A That was on April 30 -- April 26.

Q And that card shows what -- that she worked what hours?

A Here's the hours -- she worked from 1:00 o'clock, you can say, until 5:00 o'clock.

Q Was she supposed to work in the morning of that day?

A Yes.

Q Did she work that morning?

A She didn't.

Q Did she talk to you that morning?

A That morning she must have talked to me that noon.

Q She talked before she went to work?

A She must have talked when she came back.

Q Well, do you recall talking to her?

A Sure, because I wouldn't dare send an employee to the office to get a check and sign for it before they quit. They have got to come into the office and sign for it why they quit. Here's the record, here's the signature -- I wouldn't send in anybody else to do it with the exception that the girls have quit.

Q You haven't testified to the fact that you told her to go in and sign a card.

A Here's the record -- everything goes on the records. The record proves it.

Q I understand your testimony is then that on the last day the employee worked she came in at noon and you talked to her?

A Yes.

Q And you told her that if she did not work steadily or did not discontinue coming late that you would have to replace her?

A That is right.

Q Did she say anything to you?

A I talked to her before she left.

Q Did she say anything at the time you told her that?

A No.

Q And she went to work that afternoon?

A Yes.

Q And when work was over that day she told you she was going to quit?

A Yes.

Q And what did you do?

A I sent her in the office and she has got to sign why she is quitting, if there is any story connected with the quitting, whatever it is, they have got to sign for it.

Q Did the employe go to the office that day?

A Must have.

Q You sent her to the office?

A I sent her to the office.

Q And did she sign a termination slip that day?

A Here it is.

Q Well, will you present it in evidence? We can't see from this distance.

A Here is the payroll sheet and here is the signature (indicating). Why did she go ahead and sign this here?

Q Well, we are asking the questions, Mr. Stein.

A Okay.

Q Do you wish to submit into evidence the record showing that the employe signed the statement to the effect that "I left the employ of the North Avenue Family Laundry on April 26, 1938, of my own accord. Signed, Barbara Schneider." Do you wish to submit that into evidence?

A Naturally, it is the evidence -- that's all I got to show.

(Appellant's Exhibit No. 1 marked for identification and
received in evidence)

Q Did Barbara Schneider return to work at any time after that time? Will you answer yes or no?

A I think she called up.

Q When did she call?

A I don't know.

Q Did she call you?

A Yes, she called me up, she called me up later sometime. I don't remember the date. I couldn't tell you. She wanted to come back to work and I told her. "You quit,

didn't you?" That's all I said to her.

Q Do you recall how long it was afterwards -- a week or shortly after she left?

A Oh, no. It would be about a month or so, as I remember.

Q Was the employe replaced by another employe, and how soon after she left was she replaced?

A The next morning.

Q Did you ever talk to her on any other occasion other than this telephone conversation?

A I couldn't say.

Q Do you remember if you did?

A I remember she called me up after this whole thing, after she quit -- she wanted to come back to work again.

Q That is the only recollection you have of any conversation with Barbara Schneider?

A That is the only recollection I have, yes.

Q Do you know if Barbara Schneider called you and told anybody in the office that she would not report for work on the morning of April 26, or did she just remain away from her job and then return at noon?

A She had a habit, she just remained a few days away and that is all -- that's what her habit has been, because the records will prove it in 1936, here.

Q You stated that on previous occasions the employe had worked for the company for a while and then quit?

A Yes.

Q Do your records show how often that was?

A Well, here is a letter, I just wanted to read a copy of a letter, that was in 1936 I had the same difficulty with her. I think that will explain it.

(Hands paper to Examiner)

(Appellant's Exhibit No. 2 marked for identification and received in evidence)

Q Do you remember any other instances when the employe's employment was terminated?

A I don't remember. We have got 130 people down there. I can't remember everything.

Q I am just asking you to remember or recall what you can recollect.

A I have got it, it's in writing here, that's all I can produce, gentlemen.

Q Do you have complete charge of the personnel relations of the company?

A Yes.

Q Any person that is fired is discharged by you?

A Yes.

Q Did you discharge Barbara Schneider?

A No.

Q You, however, did tell her that if she would remain away from work on another occasion you would discharge her, or replace her?

A I did tell her that. I told her if she keeps on doing it the way she has been doing I will have to hire somebody else.

EXAMINER: Any questions?

MR. SCHROEDER: No.

MR. COOPER: No.

EXAMINER: That will be all, Mr. Stein. Do you have any other witnesses who know anything about this?

A Only thing, if you want to know anything about the record, I have got the girl that is taking care of the records. You can ask her.

EXAMINER: I don't think we will need her at the present time.

(Witness excused)

BARBARA SCHNEIDER,
called as a witness in her own behalf, having been
first duly sworn, on oath testified as follows:

EXAMINATION BY EXAMINER:

Q Your name is Barbara Schneider?

A Yes.

Q You were formerly employed by the North Avenue Family Laundry?

A Yes.

Q Do you recall what the last day was that you worked for the company?

A On April 25th.

Q Did you leave your job on that day?

A Well, we were supposed to begin at 10:00 o'clock in the morning, and my little boy was so sick I called up and said "I will come to work in the afternoon."

Well, I called up and the girl says, "That's all right." So I stayed. I came

back to work at 1:00 o'clock and there was a lot of work so we worked until 5:30

and then after work I went and took my shirts and Mr. Stein came to me and said, "Barbara, if you do that again I will have someone in your place."

Q When did Mr. Stein tell you that?

A Monday night, the 25th. Then I went home. The child was sick and was worse -- he had a fever of 104. So I called up, it was in the morning at 8:00 o'clock, the 26th, I said, "I will not be back to work. The child has got worse." And then Mr. Stein -- it wasn't Mr. Stein -- the girl in the office said, "Mr. Stein says you don't have to come back because he has someone in your place." Then I thought I was out, so I waited, and on Wednesday the child was taken to the hospital, down with pneumonia. Then the 29th of April I went back to get my shirts, and the little money I had left for that half day and I went in the office and Mr. Stein was in there and I said, "You laid me off when I called up." "No, I didn't lay you off," he said. "But you have told me over the telephone I didn't have to come back," I told him about the child being sick. He said, "Oh, let it all go and come back and that's all over with." Then I thought it was all right, and the girl gave me my check and she said, "You had better write a statement." Well, I did but I didn't sign it, Belle did.

Q Who is Belle?

A This girl here in the office (indicating).

Q She works in the office of the company?

A Yes, she told me what to say and I was so nervous then as long as I knew I couldn't have my job back. I went back and the child came back the 23d of May from the hospital, in three weeks and a half, and then on the 24th I had to bring him to the dispensary to have him examined and the doctor said he had to get his tonsils out and the 28th I called up to see if I could come back to work -- it would be almost a month before he would come back and I thought I could work a month, and Mr. Stein wasn't there.

Q Did you talk to Mr. Stein?

A No, I didn't. I couldn't. The girl said, "Mr. Stein isn't here."

Q You didn't see anybody or talk to anybody to ask if you could return to work?

A No, nobody else can hire except Mr. Stein. I lets that go and I think, well, it must be because I am not supposed to come back until everything was over with.

Well, the child was supposed to get his tonsils out July 11th and he got his tonsils out July 13th. He didn't come back then until the 18th of July. I went back in person on Monday morning at 7:30 and talked to Mr. Stein alone and he was next to the shirt department. I says, "Mr. Stein, when can I come back to work?" He said, "Oh, Barbara, we are so slack I have only this one machine that is working. I will let you know when you should come back." Then on the 19th I went to the employment agent, thought I might get something else if I can't get that, so all this happened from there on. July 13th and 19th -- the 18th I went to the laundry and the 19th I went to the employment agency. You see, that is all.

Q You stated that the last day you worked for the company was April 25th?

A Yes, sir.

Q And that was a Monday morning?

A No, it was Monday at noon -- supposed to begin at 10:00 o'clock on Monday morning.

Q And you returned at noon?

A Yes.

Q Did you talk to Mr. Stein that noon when you returned?

A No, not until in the evening.

Q You called up in the morning to notify them you wouldn't be down that morning?

A I called up the office there, whoever answered the phone.

Q Did you ever call the office on other occasions?

A Yes, I have called.

Q Who did you ordinarily talk to in the office?

A Whoever answers the phone.

Q You didn't recognize any of the voices?

A No, there was about three girls in there.

Q And what did you tell them then on the last morning you worked?

A I told them I wouldn't be able to come in, that my child got worse and please excuse me. I will be back in about three or four days.

Q But did you tell them that on Monday morning?

A No, I told them on Tuesday, I called up that I was sure I couldn't come Tuesday at 8:00 o'clock.

Q I am trying to straighten out what you told them on Monday.

A Monday I told them the child got sick. We didn't know how bad the child was until the doctor came.

Q Did you tell them you would report for work that day at 1:00 o'clock?

A Yes.

Q And when you reported at 1:00 o'clock you didn't see Mr. Stein?

A No.

Q You continued to work then until what time that afternoon?

A Until 5:30.

Q And at 5:30 did you talk to Mr. Stein?

A Right after 5:30, we left and I went to the office to get my shirts and then Mr. Stein came, then I talked to him.

Q And do you remember the complete conversation that took place at that time?

A Well, they were quite busy in the office. Mr. Stein said, "Barbara, don't let that happen again. If you do you had better not come back to work" or something like that "or I will have someone in your place." So then I went out to get my shirts.

Q Did you tell him then, "Well, I am going to quit."

A How could I say that, because I have to work.

Q Did you tell him that?

A No, I didn't.

Q You heard Mr. Stein testify that you told him that day that you would quit?

A Yes.

Q And he sent you to the office to get your check?

A I didn't get it until the 29th.

Q You didn't get your check until the 29th of April?

A That is right, on Friday.

Q Is that the regular pay day?

A No, pay day is on Tuesday.

Q The check that you received then, April 29th, was for what period of employment?

A During that week.

Q That was just Monday morning, or Monday afternoon?

Q Yes.

Q And how much did you receive?

A Three dollars and some cents.

Q Did you receive that much money for five hours' work?

A Well, piece work, you know.

Q You are positive that you only worked Monday afternoon in the last week of your employment?

A Yes.

Q You didn't work part of Tuesday?

A No, I didn't work on Tuesday. I couldn't go.

Q Did you ever see this piece of paper marked Appellant's Exhibit No. 1 before?

A I think this is the one that I signed.

Q You did see that sheet of paper before?

A I didn't see it, no.

Q Well, did you ever see that sheet of paper before?

A No, I didn't.

Q Well, you testified that the girl in the office wrote a statement and signed for you. Is that the paper that she was writing on?

A That is my name. I must have. I don't know.

Q Is that your signature?

A I think so.

Q Did you sign it?

A I thought it was in pencil.

Q Is that your signature? Did you sign that piece of paper?

A Yes, I think so.

Q Didn't you testify that the other girl signed your name because you couldn't sign it?

A Not my name, the other part she wrote.

Q Some other girl wrote the note that is on there?

A Yes.

Q Did you write the following words: "I left the employ of the North Avenue Family Laundry on April 28, 1932, of my own accord?"

A I didn't sign that. The girl signed it.

Q Did you write that?

A No, I didn't.

Q Who wrote that?

A Belle.

Q Who is Belle?

A She is here (indicating).

Q She is the girl that works in the office?

A Yes.

Q Did you tell her what to put down?

A Well, she told me, and I said, "Well, you do it because I am so shaky."

Q Were you required to sign that before you received your check?

A Yes.

Q Did anybody dictate that?

A Well, she said, "You had better sign it." I thought it was something about the Industrial Commission.

Q Do you recall what statement she made to you at that time?

A She said, "Barbara, you had better sign that because --" I don't know what it was, the books had to be straightened out or something.

Q And did you receive your check before you signed that statement, or afterward?

A Afterward.

Q Did you read the statement you signed?

A No, I didn't read it -- after it was signed -- as long as it was signed it was all right.

Q Did you read it before it was signed?

A She told me, "I am leaving of my own accord" -- something like that.

Q Didn't you understand the statement that was put down?

A Sure, it wasn't saying that I was going to quit, that was okay.

Q What did you understand it to mean?

A I understood her to say that I am leaving of my own accord.

Q Were you leaving of your own accord?

A Well, I was taking off time, the child being sick, that was all.

Q Then the only reason that you were going to leave was because your child was sick?

A Yes.

Q And you intended to return as soon as your child was better?

A Yes.

Q Did you tell Mr. Stein or anybody how long you expected to be off?

A Yes, I told him it would be about two or three weeks, and he said, "Come back when it is all over with". It was understood I would have to stop again to get the child away from the hospital. That was why I stayed away so long.

Q Did you tell Mr. Stein on Monday evening, the last day you worked, that your child was sick?

A No, I didn't. I called in the morning.

Q The only person you told about the sickness of your child was the person you talked to on the telephone in the morning?

A Yes.

Q And when you talked to Mr. Stein in the evening you didn't tell him?

A I didn't talk to him about it because I understood him to know that I was leaving on account of the child was sick. There was only two hours' work and I thought it wouldn't make much difference.

Q Did you tell Mr. Stein on Monday evening that you wouldn't be at work on Tuesday morning?

A No.

Q Did you intend to return on Tuesday morning?

A Yes.

Q What time were you supposed to report for work?

A Seven thirty.

Q Seven thirty Tuesday morning?

A Yes, and I called up at 8:00 o'clock.

Q Whom did you talk to at that time?

A A girl in the office.

Q And what did you say to her?

A "Tell Mr. Stein I can't come to work. The child is worse. Please excuse me for a couple days."

Q And what did the party say that you talked to?

A She said, "Barbara, we have somebody in your place."

Q They told you that on Tuesday morning at 8:00 o'clock when you called?

A Yes, because they were so busy and there was so much work there. You see, that

is what she said, but Mr. Stein said in the evening, "If you stay away" -- if I stay away they might have somebody in my place, but the other girl said in the office I wouldn't have to come back. That is what the girl said.

Q What did the girl in the office tell you, do you recall exactly what her words were?

A "Mr. Stein said Barbara needn't mind coming back. We have somebody in her place."

Q What did you understand from that?

A He laid me off, I thought. When I came back Friday it was altogether different again.

Q Then, after you had this telephone conversation with some person in the office on Tuesday morning, when did you next return to the plant?

A I returned the 29th, in the office on Friday.

Q And then you returned on Friday of the same week?

A Yes.

Q And what did you return for at that time?

A My shirts and the rest of my check I was supposed to get.

Q You didn't intend to go to work at that time?

A No, because they told me not to come back, see. I knew I was through.

Q You knew your were through?

A Yes.

Q What do you mean, through?

A On Tuesday they said, "You didn't have to come back" -- Friday when I went back I met Mr. Stein and he said, "Well, Barbara." I said, "Well, you are a fine one -- tell me not to come back when I called up." He said, "I didn't say that. I meant if you wouldn't come to work and take off so many times then you can't stay." It was all changed. I knew from then on I wouldn't get my job back.

Q You knew from then on?

A From Friday on that I couldn't get my job back.

Q And on other occasions did you attempt to return?

A On the 23d the child came back and the 25th I went to the dispensary and the 26th I called up again.

Q That is the 26th of what month?

A May.

- Q That is the first time you attempted to return to work, May the 25th or 26th?
- A No, I just called up if I could come back to work, even if the child is in the hospital he was supposed to get his tonsils out the 11th of July.
- Q When you called on May the 26th, whom did you talk to?
- A One of the girls, and she said, "Mr. Stein isn't here." So then I thought I will wait a little longer.
- Q And you made no attempt to come down and see Mr. Stein in the meantime?
- A Not in the meantime, no.
- Q When did you next attempt to get in touch with Mr. Stein?
- A I called up again on Sunday, I don't know what day it was. I called up at his home and wanted to know if I could start to work on the following week on Monday because if I started on Monday I could work all week, and I called up at home, and the maid said that Mr. Stein wasn't home, and then Monday was a day I had to go some place and that all went off on Monday, and after that I didn't call up.
- Q And did you ever see Mr. Stein after May 26th?
- A Well, only partly, the 18th of July.
- Q Where did you see him that time?
- A I went down to the laundry.
- Q And what did you go down to the laundry for?
- A I wanted to know if I could start to work that day, and Mr. Stein said it was so slack, he said, I should wait until times get better and he would have them try and call for me, or something.
- Q Did you ever talk to Mr. Stein on the telephone?
- A No.
- Q During the period of your employment, were you regularly absent for sickness or for ~~any~~ other reason?
- A Well, I was hired in 1935 -- I think it was July, sometime in July. Well, I worked all year long. Then, let's see, it was in March, I took off because I was pregnant and I wouldn't be back, and he already hired me in April, or March it was.
- Q In March of what year -- 1936?

A I can't recall when. Well, from then on I worked until April. The only time I took off was in March to go up north. That was the only time I took off, and I called up Mr. Stein at his home and he talked to me personally. He said it was all right.

Q Since March, 1936, you have been working steadily for the company?

A I don't know -- and twice he rehired me.

Q The first time you took off you were pregnant?

A Yes.

Q And the next time you took off what was the reason?

A That is the only time.

Q This is the second time?

A Yes.

Q Did you ever receive a letter from Mr. Stein in August of 1936 telling you that you had not returned when you were granted a leave of absence and therefore there was no job for you when you returned?

A I wouldn't know. Maybe so.

Q I show you Appellant's Exhibit 2. Will you read that letter and tell the Board whether or not you received a copy of that letter?

(examiner hands paper to witness)

A Yes, that is right.

Q You received a copy of that letter?

A Yes.

Q In other words you took off because of the illness of your son?

A And I was pregnant, too.

Q And you were rehired after receiving this letter at what time?

A Well, almost a whole year -- almost a whole year.

Q The date of this letter was August 25, 1936. Did you work during the winter of 1936?

A Yes.

Q During that fall?

A Yes.

Q When were you rehired?

A Last July.

Q You were rehired in July of 1937?

A Right.

Q You did not work then between the period of August, 1936, until July of 1937?

A That is right.

Q After you returned in July, of 1937, did you work steadily?

A Yes.

Q Were you off because of sickness on any occasions?

A Well, in March I called up -- it was on Monday. I wanted to go up north because my father died and he left an estate and we wanted to settle it and I called his home and he said it was all right.

Q When was that?

A That was in March sometime.

Q March of what year?

A 1938.

Q And how long were you off?

A Just that one day, on Monday.

Q Were you off because of sickness any time in 1938?

A No.

Q Were you off because of the sickness of your child?

A No, not at that time.

Q Were you off because of the sickness of anybody else?

A Not at that time.

Q What prompted Mr. Stein to say to you, "Barbara, if you are going to be absent again we will have to replace you?"

A That was on Monday, the 25th.

Q Well, what prompted him to say that? Were you absent frequently prior to that time?

A No. No. The only time I took off was that when I went up north -- that was the only time.

Q And you were only off one day?

A Yes.

Q And the next time you took off was two hours in the morning when you should have reported to work at ten o'clock?

A Yes.

EXAMINER: Any questions?

MR. SCHROEDER: Yes. Are you married?

A Yes, sir.

Q Is your husband working?

A Yes, he works at the Schroeder.

Q Schroeder Hotel?

A Yes, he is a bus boy down there.

Q How many children?

A Three.

Q Who takes care of your children when you work?

A My father-in-law stays home and the oldest girl goes to school.

Q Your what?

A My father-in-law stays home and takes care of the children.

Q How old was this child that had this pneumonia?

A Three years old.

Q How much does your husband earn?

A Well, he doesn't make much. He gets \$26 every two weeks and some tips -- he gets ten per cent of every dollar he gets.

Q How much would that amount to in a month or two weeks?

A About \$54 a month -- \$54 or \$55.

Q You say he gets \$26 every two weeks?

A Yes, sometimes.

Q How much do the tips amount to in a week?

A A week -- some times \$3 -- some times \$2.50. He doesn't make much.

Q \$2.50 to \$3, so he gets about \$15 a week with tips, is that right?

A That is all.

EXAMINER: Do you have any questions of this witness, Mr. Stein?

MR. STEIN: Well --

EXAMINER: You can ask questions.

MR. STEIN: Do I want to ask questions?

EXAMINER: Yes?

MR. STEIN: No, I just want to say something more.

EXAMINER: That will be all, Mrs. Schneider. I would like to call this other girl.

(Witness excused)

BELLE LAPPING,
called as a witness for the appellant, having been
first duly sworn, on oath testified as follows:

EXAMINATION BY EXAMINER:

Q What is your name?

A Belle Lapping.

Q You are employed by the North Avenue Family Laundry?

A Yes.

Q What type of work do you perform?

A General office work. I take care of the payroll.

Q Do you ever receive a telephone call from employees who are expecting to be absent, notifying the company that they are unable to report for work?

A They don't call me. They speak that to anyone that answers the phone. I answer very few phone calls.

Q Did you ever receive any telephone calls made by Barbara Schneider?

A Not that I recall. I answer very few telephone calls.

Q Do you have charge of the payroll records of the company?

A Yes.

Q Do you recall when Barbara Schneider received her last check from the company?

A I can look at the records here. I don't recall right offhand.

Q All right, you can check your records.

A Well, the week ending April 30th she worked on Monday and Tuesday afternoon.

Q From your payroll records how many hours did the employee work on Monday?

A Five and a half hours.

Q And what hours were those?

A From 10:00 until 4:30, or 4:31 to be exact.

Q And from your records, how many hours did she work on Tuesday?

A Three and three-fourths.

Q And what hours were they?

A From 12:59 to 4:46.

Q Are those the afternoon hours for the laundry?

A Yes.

Q In other words they started at 1:00 o'clock and quit at approximately 5:00?

A Well, between 4:30 and 5:00.

(Discussion off the record)

Q I asked if those were approximately the regular hours for the last afternoon this employe worked?

MR. STEIN: Of this employe?

EXAMINER: Yes.

MR. STEIN: Pardon me.

EXAMINER: Do your records show the date on which Barbara Schneider received her check for the last work that she performed for the company?

A Well, it doesn't show the exact date I gave her the check.

Q Do you recall the last day or the date on which the employe received her last check?

A Just a minute. She came in during the week ending April 30th -- I don't recall what day or whether she came in that evening after she quit work or whether it was a few days later and she spoke to Mr. Stein, I think, at that time.

Q And did you see her talking to Mr. Stein?

A I think she came to the office and spoke to him -- he was right there -- and usually when an employe quits Mr. Stein informs me of this and when they come into the office to call for their check I ask them whether they want to sign whether they are quitting and in this particular case I asked her whether she was quitting and she said, "Yes." And I said, "Are you quitting of your own accord?" And she said, "Yes." Which I ask every employe, and if they do they usually sign, and some of the employees ask me to write the sentence for them, and that happened in Barbara Schneider's case. She asked me to write it and I am sure they all read the sentence, unless they can't read and I help them.

Q Do you always read the sentence before you have the individual sign?

A When they say they are quitting of their own accord, and I say "Do you want to sign to that effect 'I am leaving of my own accord on this and this day'" they usually read it over before they sign it because they hesitate before they sign it. I am sure they read it.

Q I show you Appellant's Exhibit 1. Can you tell from that when that signature by Barbara Schneider was placed on that paper?

A That was there -- I should think that would be the week ending the 30th -- sometime during that week.

Q It was sometime during that week?

A Yes.

Q You did not show the date on which that was signed?

A No, I suppose I should have put the date on there, but I didn't at this time.

Q Do you recall what time of the day it was?

A I can't.

Q What are your hours?

A From 8:00 till 5:00.

Q Do you recall if that was signed in the afternoon, or was it signed in the morning?

A I couldn't say definitely. I just couldn't recall.

Q Do you recall Barbara Schneider appearing and asking for a check?

A Yes.

Q Was that on a regular pay day?

A No. I don't --

Q You what?

A I don't think so.

Q What are your regular pay days?

A On Tuesday.

Q And for what payroll period does her check include?

A It includes for that week ending April 30th.

Q No, I am trying to establish when the checks are received on Tuesday of any week does that pay them up for the work of the previous week, or does it pay them up to them?

A For the previous week.

Q For the previous week, including the Monday prior to the day in which they receive the check?

A I don't quite get that -- well, if we pay them on a Tuesday that is for the previous week.

Q The previous week ending Saturday night?

A Ending Saturday, yes.

Q In other words if Barbara Schneider received this check on Tuesday, April 26th, that would have included her pay for the previous week ending Saturday, April 23d?

A On that Tuesday, yes.

Q Yes. And if she worked Monday and Tuesday, namely, April 25th and 26th, she would ordinarily have to wait until the following Tuesday, or approximately May 2d, in order to get that check?

A Yes. That is true. And perhaps she didn't come in the following week. Perhaps she didn't come in until the following week and she got her check then.

Q It is your recollection that she came in for her check after Tuesday, is it?

A That is what I think, that she came in after Tuesday. I don't quite remember the day.

Q Did you write her check out during the regular payroll?

A I wrote the regular payroll.

Q Well, did you write it out for this employee here?

A As near as I can recall I wrote it out on the regular payroll.

Q You didn't make another check for this individual?

A Not as far as I can remember.

Q Are you sure that Barbara Schneider signed that Exhibit 1 during week ending April 30th -- is there any way that you can identify that signature?

A Do you mean if she signed that?

Q Yes, if she signed it, and the time she signed it, do you recall, during the week ending April 30th?

A Well, I wouldn't quite swear to that because as far as I can remember, I have some recollection that I thought she was in that particular week. It might be wrong in that case unless I have it down there in black and white. I would read it but I don't have the date when she signed it here.

Q Did Mr. Stein tell you that Barbara Schneider quit?

A Yes.

Q And when did he tell you that?

A I don't remember the exact date.

Q Did he tell you on the same day that Barbara Schneider appeared before you?

A Well, he usually tells me when they notify him.

Q Did he tell you prior to the day on which Barbara Schneider received her check, do you recall?

MR. STEIN: May I interrupt? I would just like to explain how we handle that.

EXAMINER: I think the witness could testify to the procedure.

A What was the question again?

(Question read by the reporter)

EXAMINER: I will restate the question. Did Mr. Stein tell you that Barbara Schneider quit prior to the date on which Barbara Schneider appeared and asked for her check?

A Yes.

Q Did he tell you the day before or was it the same day?

A Well, I think that he told me in the night of the -- Tuesday evening -- somewhere around that time. I think while she was still working that Tuesday -- while she was still working Tuesday I think he came over and told me that she was quitting.

Q And did she come in and ask for her check that same day?

A I don't think she came on that same day. I think she came in a few days later -- or a day later or so.

Q Do you recall what Mr. Stein told you, or is it customary for him to just tell you that so and so was intending to quit?

A Yes, he usually tells me they are quitting.

Q Does he ever tell you the reason why?

A Some times.

Q Did he tell you the reason why in this case?

A Well, I think he did.

Q What did he tell you?

A I know on several occasions she didn't show up and many times Mr. Stein said,

"Well, again Barbara didn't show up, and again she didn't show up." I don't remember whether she called all those different times to give the reason why she didn't show up.

Q Do you keep any record of phone calls by employees notifying you they won't be down that day?

A Excuse me, and the reason?

Q Yes.

A No.

Q Did you make out the benefit liability report for this employee?

A Yes, I did.

Q And you made out this benefit liability report and showed the denial entry of quit?

A Yes.

Q And the reason for that, for inserting that denial entry is because the employee signed the statement?

A Yes.

Q That she was quitting?

A Yes. I don't write that sentence unless the employee requests me to write it.

Q Did Barbara Schneider tell you what to write here?

A Well, I asked her whether she was quitting of her own accord and she says, "Yes." And I said, "Well, would you like to sign to that effect?" And she says, "All right." And, "Well, you write whatever you want." I said, "No, I think you had better write it." And I says, "Well, do you want me to write it and you read it and sign it?" And she said, "Okay." After I wrote it I am sure she read it because they all hesitate before they sign it.

Q Did you ever see Barbara Schneider back at the laundry after the day on which she signed this statement?

A That I don't recall. Every day there is someone there to see Mr. Stein. They usually go in the other office.

Q Did you ever see her and talk to her personally?

A I don't recall.

EXAMINER: Any questions?

MR. COOPER: No.

MR. SCHROEDER: No.

A May I show you some of the time cards, the times she was off during the last few months of her employment?

EXAMINER: Yes, if you can first tell the Board about the absences the employe had during the last two or three months of her employment, if you have those ready.

A Well, I don't know the exact date of that -- well, March 26, 1938, that week ending on that Monday, she was off all day. I don't know the exact date of that Monday. Then April 16, 1938, on a Friday, that is that week ending April 16th, on that Friday she only worked a day and a half -- an hour and a half rather. She came in at 7:00 o'clock and she left at 8:30. I don't know the reason for it. The only time I keep track of the reasons is if they earn less than their benefit rate, or if they quit.

Q You don't know whether there was sufficient work to keep her employed that full day, do you?

A I am sure there was. I am sure there was work for her. They wouldn't just tell her --

Q In other words the card just shows that the employe worked an hour and a half?

A Yes.

Q You don't know the reason why she didn't work the balance of that day?

A Mr. Stein would know that.

Q Well, you don't know that, do you?

A No.

Q What other dates do the record cards show she was absent?

A In week ending April 30th, she worked Monday and Tuesday afternoon.

Q What time did she report for work on Monday?

A What day?

Q On April 25th?

A Ten o'clock, that was week ending April 30th?

Q Yes.

A Yes.

Q She worked until when?

A 4:31 -- 10:00 until 4:31.

Q And on Tuesday she started at 12:59?

A 12:59 to 4:46.

EXAMINER: Any questions?

MR. COOPER: Is it customary for a shirt finisher to start work at 10:00 o'clock on Monday?

A They are regularly.

Q They don't start at 7:30 like the rest of them do?

A Not on Monday.

EXAMINER: Do you have any other questions you would like to bring out, Mr. Stein?

MR. STEIN: I would just like to tell the Board as to the procedure we follow when we fire -- you have got to have ^a social security number -- and our procedure is when they are quitting immediately I tell them in the office and they always put the slip on the check. Now, Mrs. Jones is going to quit that day, she has got to sign and everything else. It is requested by the office and they know if they are quitting or not in order to keep our records straight. That is what we have been doing, but in Barbara Schneider's case, she was so anxious to go to work -- there is one question I want to ask her.

EXAMINER: We will recall her if you want to ask her questions.

MR. STEIN: I just want to ask a question.

EXAMINER: If it is only one question, I think she can answer one question where she is.

MR. STEIN: On the first occasion, Barbara, when you were slack down in the shirt department and we asked you to go down in the other department, you told Agnes that you would rather go home before you would work there.

EXAMINER: Well, ask her the question, Mr. Stein, and let her answer it.

MR. STEIN: Okay.

EXAMINER: Let her answer it.

A Yes, that was the time that we were slack on shirts and Agnes told me to go to the mangle and I had made an appointment at the dentist to go at 4:00 o'clock and I thought we would be finished and I said I would rather go to him instead

of working that mangle and it was changing off from piece work, too, and I would rather do that, see.

EXAMINER: Does that answer your question?

MR. STEIN: Here is what I want to tell the Board. It was a job -- Barbara Schneider -- the girls know, all of them, that she has got to have a job, and we overlooked a lot of things and we have tried to help her -- I can prove that -- I have witnesses to that fact.

EXAMINER: Is that material to this case?

MR. STEIN: I want to bring out the point -- she didn't go to the laundry because she quit -- she asked me, or told me in the laundry, talked to me -- and that is why I overlooked a lot of things. And on top of it she wants to take out employment insurance. As far as I personally feel this is our case.

EXAMINER: Well, I think we have got the facts pretty well established.

MR. SCHROEDER: Mr. Stein, what kind of a worker was Mrs. Schneider?

MR. STEIN: Okay.

MR. SCHROEDER: She did her work well?

MR. STEIN: Yes.

MR. SCHROEDER: Nothing wrong with her work?

MR. STEIN: No.

MR. SCHROEDER: She didn't like to be transferred to other departments?

MR. STEIN: She didn't like to be transferred to other departments because of her going home.

MR. SCHROEDER: As far as her shirt finishing was concerned, she was a good shirt finisher?

MR. STEIN: Yes.

EXAMINER: That will conclude the hearing and we will send a copy of the decision to both parties. Let the record show that Appellant's Exhibit No. 1 has been withdrawn.

(Witness excused)

DISMISSON THE HEARING ADJOURNED AT 10:15 A.M.

I, Matthew L. Peterson, hereby certify that as an official reporter for the Industrial Commission of Wisconsin I took in shorthand the proceedings had before the Commission in the above matter on October 4, 1938, and that the attached transcript is a true and correct copy of the said shorthand notes and of the whole thereof.

Matthew L. Peterson

INDUSTRIAL COMMISSION OF WISCONSIN

BEFORE THE
INDUSTRIAL COMMISSION OF WISCONSIN
UNEMPLOYMENT COMPENSATION DEPARTMENT

[1941]

In the matter of the claim of
BETTY BECKLEY,

Employs, Respondent,

against

The unemployment reserve account of
MILWAUKEE HOTEL APARTMENT CORPORATION,

Employer, Appellant.

Hearing No. 3888

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BEFORE THE
INDUSTRIAL COMMISSION OF WISCONSIN
UNEMPLOYMENT COMPENSATION DEPARTMENT

In the matter of the claim of	1	
BETTY BECKLEY,	2	
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Pursuant to notice, this matter came on for hearing before the Industrial Commission of Wisconsin, at Milwaukee, Wisconsin, on the 16th day of December, 1941, at 1:00 P.M.

APPEAL TRIBUNAL:

Max J. Peltin, Commission Examiner.
Fortney Larson, Representative of Employers.
T. J. Toward, Representative of Employees.

APPEARANCES:

The employe appeared in person.
The employer appeared by W. J. Crawford, manager.

WHEREUPON, the following proceedings were had:

MR. PELTIN, The Examiner: This is the case of Mrs. Betty Beckley, the employe, respondent, against the unemployment reserve account of Milwaukee Hotel Apartment Corporation, the employer, appellant.

In this case the employer denied that the employe was eligible for unemployment benefits, claiming that she refused work.

The commission deputy's initial determination overruled the

employer's denial, held that the employee was unavailable for work available in week No. 44 and suspended eligibility for benefits in that week, but held that the employee was available for work after week 44 and allowed benefits after week 44, and the employer appealed from that determination.

Now, Mr. Crawford, I am not exactly certain what the issue in this case is. Are you claiming that Mrs. Seoley quit her job?

MR. CRAWFORD: No. I am not claiming that at all.

THE EXAMINER: What are you claiming?

MR. CRAWFORD: On October 24 our housekeeper --

THE EXAMINER: Just a moment. I don't want to get testimony first. We will have you come up to the stand and give your story, but I was just wondering what the issue in the case was. Are you claiming that she quit?

MR. CRAWFORD: We are claiming -- Our girl was sick. We had made a job for her.

THE EXAMINER: In other words, you don't have any particular provision of the law in mind, as far as the denial of benefits is concerned?

MR. CRAWFORD: We want people that we can depend on.

THE EXAMINER: Just a moment. I don't want testimony yet. I just want to try to get the issue clarified, you see.

MR. CRAWFORD: Yes.

THE EXAMINER: There are various reasons under the law for denying benefits; discharge, misconduct, quit employment, and things like that-- and I was just trying to find out what the issue is.

MR. CRAWFORD: No issue, except that she agreed to come to work.

THE EXAMINER: Well, we will take testimony, and see what the facts are and what the facts bring out.

Mrs. Beckley, you understand what the case is about, do you not?

MRS. BECKLEY: Yes, I do.

THE EXAMINER: All right. We will then proceed. Now, Mr. Crawford, you are familiar with the facts in this case, aren't you?

MR. CRAWFORD: Yes, sir.

W. J. CRAWFORD,

called as a witness for the employer, having
been first duly sworn, testified as follows:

EXAMINATION BY THE EXAMINER:

Q Your name is W. J. Crawford?

A Yes, sir.

Q You are the manager of the Milwaukee Hotel Apartment Corporation?

A Yes, sir.

Q Which hotels or apartments do you operate?

A Plaza Hotel.

Q Plaza Hotel?

A Yes, sir.

Q Where is that located?

A 1007 North Cass Street.

Q Do you know the employe in this case, Betty Beckley?

A Yes, sir.

Q How long did she work for your company?

A Since April.

Q Since April of 1941?

A That is right.

Q It was a period of around six months?

A Yes, sir. Her employment was because of the illness of others, and because of her working during vacation.

Q You say she was given temporary employment because of what?

A Sickness.

Q Among the other employees?

A Yes, sir. And when she was hired, the housekeeper told her that she couldn't keep her on permanently -- that she was to work while the girls were on vacation or sick. And after that our housekeeper -- we wouldn't need her, we didn't need her -- she was off for two weeks. And we heard that she had applied for aid so I gave that work to the other girl.

Q Just a moment. Before we get there, I want to ask a few more questions.

A All right.

Q What kind of work was she doing?

A She was a maid.

Q And her work consisted of cleaning up rooms at the hotel. Is that the kind of work she was doing?

A Yes, sir. Maid and Cleaning Woman.

Q Now, originally, when you hired her, she was hired for temporary employment?

A Yes, sir.

Q Because of the fact that one of the girls was sick?

A Yes.

Q And then she was kept on while the other girls took their vacations?

A That is right.

Q And after they were through with their vacations, she was still kept on?

A After they were through with their vacations, she was still kept on—yes, sir.

Q Why was she kept on after they were through with their vacations?

A Why?

Q Yes.

A Because there was sickness, — one of the other girls.

Q That was when she was hired?

A Yes. Of course, vacations were extended. Some of the girls took more than two weeks. Some of them took a month.

Q What did you say about her being laid off and then you took her back because you found she had applied for benefits?

A We heard she had applied for benefits.

Q When did you lay her off?

A What time was it, Mary?

Q Just a moment. We can have her on the stand later and testify. Do you know?

A It was in October. I don't know the exact date.

Q You don't know exactly when she was laid off? Is that right?

A Yes, sir.

Q And —

A (interrupting) She applied for work — she applied for compensation. I didn't contest that. I gave them three and one-half days each week—steady work—Betty and the girl next to Betty.

Q Then you called her back and gave her part-time employment?

A Yes.

Q How many days a week was that?

A Three and one-half days a week.

Q What days of the week?

A She had Monday, Tuesday and Wednesday.

Q And then what happened? She came back for work on Monday, Tuesday, and Wednesday?

A Yes, sir.

Q How many weeks did she work on that schedule?

A Until -- I would say about three weeks.

Q Well, when she was called back, was she notified that she would be expected to work on Monday, Tuesday, and Wednesday of each week?

A Well, there was nothing specified. We wanted to do the right thing.

We divided up the week and gave each girl three and one-half days' work.

Q When was the other half day? Monday, Tuesday and Wednesday are three days. When was the other half day?

A Thursday.

Q Well now, do you know whether or not she was working only on Monday, Tuesday, Wednesday, and Thursday, while working on this part-time basis? assigned These were her regular/hours, ordinarily?

A Yes.

Q What I meant was--when she was hired on this part-time basis, was she told that she would have to work on Monday, Tuesday, Wednesday, and a half a day on Thursday?

A Well, the housekeeper --

Q (Interrupting) The housekeeper would assign the hours?

A Yes, sir.

Q Is she now fit?

A She has full charge of that.

Q Do you know whether she actually worked on Monday, Tuesday, Wednesday, and a half a day on Thursday?

A Yes, sir.

Q She worked on that basis for about two or three weeks?

A I think she did.

Q And then what happened?

A Well, this girl that was working part-time with her was sick. We sent one of our maids to ask her to come in on Sunday morning, and Betty came back and says "Tell her I can't come in. I have company."

Q When was this other maid sent to tell Mrs. Beckley to come to work on Sunday?

A Friday, October 24th.

Q And the message was that Mrs. Beckley was to come to work on Sunday morning?

A Yes. That would be Sunday morning, October 26th.

Q And what was the report you received from this maid?

A The report came back to the housekeeper that she said -- told the housekeeper: "I can't come. I got company."

Q Did you have any further contact with Mrs. Beckley?

A No, sir.

Q Did Mrs. Beckley come to work on Monday?

A No, sir.

Q You mean she didn't come down on Monday?

A On Sunday?

Q On Monday.

A No. No, we didn't feel as if -- we took this girl that was working part-time with Betty, and put her on full-time.

Q Did you notify Betty?

A Did I notify her?

Q That she should not work any more.

A I don't know whether she was notified or not.

Q In other words, Mrs. Beckley was notified before Monday not to go to work on Monday?

A Yes.

Q Is that right?

A That's right. That is, the housekeeper told me that morning that Betty did not come to work.

Q I can't hear you.

A I say—the housekeeper told me that morning (that Saturday morning) —“I sent for Betty and she refused to come to work on account of having company”; and I said, “We can't do that. Go to work and put this other girl on, permanently.”

Q In other words, she was discharged as of that particular week?

A Is that right?

A Yes.

Q Had Mrs. Beckley ever been absent from work before?

A The Housekeeper —

(Here there was an interruption by some person.)

THE EXAMINER: We can have you on the stand later. At the present time Mr. Crawford is on the stand. We would rather you would not make any remarks at all as to what you know, since Mr. Crawford is testifying. You testify as to what you know about it, Mr. Crawford, and what you don't know about it, just say that you don't know.

THE EXAMINER:

Q Had Mrs. Beekley ever been absent from work before, as far as you know?

A As far as I know, she had; but I don't know how many times.
That I couldn't tell you.

Q Do you know what the reasons for it were?

A Oh, sickness or something like that. That is what most of them are. They say they are sick.

Q Do you know whether she gave you proper notice when she was absent on previous occasions?

A Well, that I couldn't answer. She would call the housekeeper in the morning.

Q She would call the housekeeper in the morning?

A Yes, sometimes they don't give you notice. They would call up at eight o'clock and say they would not be at work—but the housekeeper can answer that more authentically than I can.

Q Now you claim that the report came back, when this maid was sent to see Mrs. Beekley, that she could not come to work on Sunday morning, because she had company?

A That is right, yes, sir.

Q That was not one of her regular work days, was it?

A No. But she was working half-time.

Q She was working half-time?

A That's right.

Q These two extra girls were dividing up, with three and one half days' work each week, and this girl was sick -- the one who was working half of the week with Betty?

A She was sick, and that is the reason we sent for Betty to come in.

Q When was she sick?

A Well, she was sick October 24th.

Q Friday, wasn't it?

A That's right.

Q Well, was she sick also on Sunday?

A Yes.

Q Who took her place on Friday?

A We didn't have anybody take her place.

Q You got along without her on Friday?

A The housekeeper had to double up on the work.

Q How about Saturday? Was she sick on Saturday also?

A Yes, sir.

Q How did you get along on Saturday then?

A How did we get along?

Q Yes.

A Well, we simply didn't try to get anybody.

Q The housekeeper helped with the ordinary work?

A Oh, yes.

Q Why wasn't Mrs. Beckley called before?

A Because we have no maid service on Sunday. You see, we have one maid that works on Sunday. There is no maid service on Sunday at all. The guests are given linen towels on Saturday and that carries them over until Monday, so we just have one maid from ten o'clock until two o'clock in the afternoon -- until two or three o'clock in the afternoon, when her work is done.

Q In other words, you could get along without Mrs. Beekley or the other maid, who was sick, on Friday and Saturday. Is that right?

A Well, then you are handicapped.

Q Yes, but you managed to get along without calling Mrs. Beekley on these days?

A Yes.

Q But, on Sunday, she would be the only one there. Is that right?

A That's right. The housekeeper is there on Sunday morning, to see that everything is taken care of, as far as the linen is concerned.

Q Who actually took care of this work on Sunday morning, since Mrs. Beekley did not appear?

A Who was taking care of it?

Q Yes. Who did take care of it that morning?

A Well, I'll let the housekeeper answer that part of it.

I think it is the relief girl that worked there three and a half days.

I am not sure.

Q Is there anything else, Mr. Crawford that you know about this case?

A Not that I know of. I want to be fair with the girl. I want to give her employment.

Q Do you know whether the reason for Mrs. Beekley's not wanting to work on Sunday was that she had planned to leave the city because of some illness?

A No. That wasn't it. I am fair about it. So is the housekeeper. If anybody is sick, I am pretty fair about this. We are pretty fair. After that message came back -- the message came back, and I have got the young lady with me -- she told me (and I think she would tell the truth) -- the message came back that she said "I can't work. I got company."

That was the message that was delivered to the housekeeper and told to me.

THE EXAMINER: Do you have any questions, Mr. Toward?

MR. TOWARD: Yes.

BY MR. TOWARD:

Q Was discharged her?

A Did I? No. The housekeeper sent word for her not to come back on Monday.

Q That's all.

THE EXAMINER: Any questions?

MR. LARSON: No.

THE EXAMINER: All right, That's all, Mr. Crawford. I might say, Mrs. Beckley -- Do you have any questions you want to ask of Mr. Crawford? You will be on the stand later, but if you have any questions, you can ask them. Or did we cover all the questions?

MRS. BECKLEY: One thing I would like to ask. I noticed he said about me being off. You say I was sick. ~~At that~~ whole time I was working there, I was off one time.

THE EXAMINER: You can testify to that later, when you are on the stand. But you have no other questions?

MRS. BECKLEY: No. That's all.

THE EXAMINER: All right. That's all, Mr. Crawford.

(Witness Released.)

MARY JOZWIAK,

called as a witness for the employer,
having been first duly sworn,
testified as follows:

EXAMINATION BY THE EXAMINER:

Q What is your name?

A Mary Jozwiak.

Q You are employed by the Milwaukee Hotel Apartment Corporation?

A That is right.

Q And you are the housekeeper there, aren't you?

A Yes.

Q What are your duties as housekeeper?

A I see that the rooms are kept clean.

Q And what else?

A Well, I guess that's about considering everything.

Q You are in charge of the maids, are you?

A In charge of the maids.

Q In charge of the maids, and what else?

A Cleaners, housemaids, and housemen.

Q How long have you been employed at this hotel in that capacity?

A Fifteen years.

Q You know the employe in this case, Betty Heckley?

A Yes.

Q She worked as a maid at the hotel, didn't she?

A Yes, sir.

Q And she worked --

A (Interrupting) -- and as a cleaner,

Q Maid and cleaner?

A Maid and cleaner,

Q And she worked from about the middle of April?

A April 21.

Q From April 21st until October 23--didn't she?

A That is right.

Q Her duties were to take care of the rooms -- clean the rooms?

A Well, sometimes she would make up apartments, and sometimes she cleaned.

Q By "cleaning" what do you refer to?

A Scrubbing,-- the tiles and woodwork.

Q During the period of her employment, had she ever been absent from work?

A Yes.

Q When was she absent?

A She was absent some time. I don't remember exactly the dates, but she was sick for about two weeks, I would say. She was ill. She had a nervous trouble, she told me.

Q But she notified you of her absence at that time?

A Yes, she did. She sent word.

Q Do you know when that occurred?

A Really, I don't know the dates.

Q Do you have any reason to doubt that she actually was ill at that time?

A No, I don't doubt it.

Q Apart from that period of two weeks, was she regular in her attendance?

A I believe so. I just don't remember.

Q At the present time, you can't think of any other absence?

A I can't think of any, no, sir, I can't think of any.

Q Was her work satisfactory?

A Well, yes, it was.

Q Was she laid off at one time?

A Yes.

Q When was that?

A Well, that -- I don't remember; but I called her back after two weeks.

Q Was that some time in October?

A That was, yes.

Q It was in October?

A Yes.

Q And the reason you called her back was that she had applied for benefits, and so you divided the work between her and the other maid?

A Yes, the two last girls—I thought I would give them each 3 and one half days. I didn't specify just what days I would have them come in.

Q Do you know how long Mrs. Beckley worked on this part-time basis?

A About three weeks.

Q During those three weeks what days did she work?

A I had her come in Mondays, Tuesdays, Wednesdays, and up until 12 on Thursdays.

Q Now, on the last Thursday of her employment she worked until 12 o'clock -- on Thursday, October 23rd?

A That's right.

Q Did you have any conversation with her before she left her work that day?

A No, I didn't.

Q Did you tell her she should come back when she was called, or anything to that effect?

A No. She was to come back on Monday, that following Monday.

Q In other words, when she left work on Thursday, the understanding was that she was to come to work on Monday?

A Unless I specified otherwise, she was to come back on Monday.

Q The understanding then was that she was to come back on Monday?

A Unless I specified otherwise.

Q You mean, unless you called her in, between that time?

A I might call her in, between, if I should need her.

Q Will you state what happened after that Thursday, October 23?

A Well, Thursday -- that afternoon -- I was (Or was it Friday--Friday morning?) -- the girl's sister, that worked -- that was to work -- to come in on Friday--(I don't remember whether it was Friday or Thursday that I heard that the other girl, that was supposed to come in over the week-end, was ill, and I asked her if she thought she could be here on Sunday) -- I could get along on Friday and Saturday, but Sunday, when I have just one maid here, I had to have somebody. She didn't think she'd be well enough on Sunday, so I asked Lucy to stop at Betty's house and ask Betty to come in on Sunday morning. On Saturday morning Lucy came and said "Betty can't come in, because she has company." "Why?" I said then, "Tell Betty not to come in Monday." I was just trying to make work for the two girls--to divide up the time and work. That Sunday, with one girl, I just had to have someone take care of the linen. We give "transient" service on Sundays--not to the permanent guests.

Q In other words, after Mrs. Beckley indicated to you that she wouldn't come in to work on Sunday, you decided to give the other maid all the work?

A Yes, sir.

Q To work full-time?

A Yes, sir.

Q And to discharge Betty Beckley?

A Yes, sir.

Q You didn't have any conversation with Mrs. Beckley at all then?

A No, sir.

Q Mrs. Beckley didn't come down to the hotel and speak to you?

A No, sir.

Q Didn't you think that the reason Mrs. Beckley gave was a good reason for not coming to work?

A No, sir. I have to have girls come in. I can't be left without help. That is why I had the two girls steady. It is very important that we have one girl there on Sundays.

Q Is there anything else that you wish to state about this matter?

A No, sir. No, sir.

Q Do you have any questions?

MR. TOWARD

Q Was there an idea in your mind that this girl was discharged when you told her not to come in?

A No, sir. I thought that inasmuch as she didn't come in when they needed her that she didn't care whether she worked or she didn't.

Q You did tell her not to come in?

A I did say word.

Q Not to come in?

A Yes.

MR. LARSON:

Q Would she have received more pay during that time if she worked on Sunday?

A ^{No} We work shorter hours on Sunday. We work from about ten to two.

Q Would she have worked in addition to the three and a half days?

A Oh, sure.

Q Would she have received extra pay for working them?

A You see, on weekdays they work from eight to four—eight hours during the week, and on Sundays from ten to three.

THE EXAMINER:

Q Of course, she would have gotten extra pay for that.

A That's a day's work.

Q Yes. She would have gotten more money.

A The six.

MR. LARSON: That's all.

THE EXAMINER: All right. That's all.

(Witness Excused.)

LUCY FOURSTON

called as a witness for the employer,
having been first duly sworn, testified
as follows:

EXAMINATION BY THE EXAMINER:

Q What is your name?

A Lucy Fourston.

Q Will you spell your last name?

A F-O-U-R-S-T-O-N.

Q Where do you work?

A Plaza Hotel.

Q What kind of work do you do there?

A The maid work.

Q How long have you been working there?

A I think, in March. I don't know what date in March.

Q That is, since March, 1941, is it?

A Yes.

Q Do you know Betty Beckley?

A Yes.

Q Did she work as a maid and cleaning woman also for the Plaza Hotel?

A Yes.

Q And she worked there while you were working there?

A Yes.

Q Did you know Betty Beckley outside of working hours? Is she a friend of yours? Just speak a little louder. Did you say "Sure"?

A Yes.

- Q Now do you remember being told by the housekeeper, Miss Jorwiak, to notify Betty about some extra work?
- A Yes.
- Q Will you state what you were told, when you were told it, and what you told to Betty, and everything else in connection with that matter.
- A Well, the housekeeper told me to stop in to see was my sister able to come to work, and she says she wasn't able to come to work.
- Q Your sister?
- A Yes. And then she told me, if she wasn't able to come to work, to stop and see Mrs. Beckley. So I stopped by her place, and I told her what the housekeeper asked me to--"Would she come in and work Sunday?" And she told me, No, she couldn't come--"I am supposed to have company".
- Q That is all that was said?
- A Yes.
- Q And then, after Mrs. Beckley told you that she couldn't come, you reported that to the housekeeper?
- A Yes.
- Q Then, did the housekeeper tell you to notify Betty?
- A Yes--that she shouldn't come to work Monday--not until she sent for her.
- Q The housekeeper told you to tell Betty not to come to work until she sent for her?
- A Yes.
- Q Is there anything else you know about this case?
- A No.

THE EXAMINER:

Do you have any questions, Mr. Toward?

MR. TOWARD:

C You said "until she sent for her". In your knowledge, did she ever send for her after she made that statement: not to come "until she sent for her". Do you know if she ever sent for her?

A What?

Q Do you know whether she ever sent for her? She said she was not to come "until she sent for her". (That is this lady here.)

((Mr. Toward indicated Mary Jowiak.)))

A No.

Q Do you know, of your own knowledge, whether she ever did send for her?

A No.

Q You don't know?

A No.

THE EXAMINER:

Any questions?

MR. LARSON: No.

THE EXAMINER: All right. That's all. Is that all you want to bring out by this witness?

MR. CRAWFORD: Yes.

(Witness Excused.)

THE EXAMINER: All right. Will you take the stand please, Mrs. Beckley.

MRS. BETTY BECKLEY

called as a witness in her own behalf,
having been first duly sworn, testified
as follows:

EXAMINATION BY THE EXAMINER:

Q Your name is Mrs. Betty Beckley?

A Yes.

Q Now, Mrs. Beckley, you worked at the Plaza Hotel for about six months,
didn't you?

A April —

Q From April 21st?

A Yes.

Q Until October 23rd, 1941?

A Yes, sir.

Q And the work you did was that of a maid and cleaning woman?

A Yes, sir.

Q During the larger period of your employment, you worked full time, didn't
you?

A What?

Q Did you work full time most of the time that you were employed?

A Most of the time, until October. I think it was in October that I started
to — she laid me off.

Q You were laid off in October?

A Yes.

Q What were you told when you were laid off?

A She told me to not come back until she sent for me.

Q And were you sent for later?

(Witness nods her head.)

Q You must speak your answer, so that the reporter can get it.

A Oh, yes.

Q You were laid off in October and then called back about two weeks later?

A Yes.

Q And when you were called back, what kind of work were you given,
and what were your hours or days?

A I worked from Monday, eight o'clock in the morning, and then I worked through
Thursday, until twelve o'clock.

Q That was twelve o'clock noon, wasn't it?

A Yes.

Q Were you told anything about that that was to be your regular schedule, or
what were you told about that?

A I wasn't told anything in particular. Just on Thursday, when we would get
through, she would say, "Betty, you go home, and don't come back until
I send for you" and almost every Sunday she would send Mrs. Fourston, or
her sister, to come back and tell me that the housekeeper said to come in
on Monday, and I would go in on Monday.

Q You mean that after every week that you worked you were notified on
Saturday --

A (Interrupting) That's right.

Q (Continuing) -- or on Sunday, to come to work on Monday?

A No. Every Sunday Mrs. Fourston would come by the house, and she said,
"Mary said 'Come in Monday'."

Q How many weeks did you work on this part-time schedule?

A I am not positive, but I think it was three weeks.

Q Were you absent from work once for a period of about two weeks?

A I was sick from Saturday until that next Monday. I was taken sick, I was
taken very sick, and I couldn't go to work, and they called the doctor, and
they carried me to the hospital, and he said it was my nerves/^{that were} broken down,
and so I stayed in bed, one week, until the next week, and then she sent
ask me when I was going to
word by one of the girls to/come to work, and I said to the girl when
I thought I would be able to come in, and I said "I am going to try to come
in Monday", and so I went in Monday.

- Q You were absent just a little more than a week?
- A Yes, I was.
- Q Is that the only time you were absent from work?
- A The only time, ^{except} -- only when she told me not to come.
- Q And do you think, when you were absent, that you sent word that you were sick and couldn't come to work?
- A Yes.
- Q Now, on this particular Thursday, October 23rd, which was the last day that you worked there, wasn't it?
- A Yes, it was.
- Q On that day, what were you told at the close of work, at noon?
- A Well, the housekeeper wasn't in there, but the assistant housekeeper was down in the linen room with the dirty clothes, and she said, "Betty, you remember to come in on Monday." I said, "O.K. Stella. I won't forget."
- Q The assistant housekeeper told you on Thursday to remember to come on Monday?
- A Yes.
- Q On Friday or Saturday, did Lucy Fourteen come to you and tell you that the housekeeper would like you to come to work on Sunday morning?
- A Yes, she did.
- Q And what did you tell her?
- A I said, "Tell her I am sorry", but I didn't tell her the details of it, because I had a little sister -- she hadn't seen me for twenty-two years. She was very sick, and so my sister from Beloit wired me to come in, -- she had been visiting me, but had gone back home; so I didn't tell her why I couldn't come, but I just told her that I was sorry that I couldn't come in.

Q And that was on Friday or Saturday that Lucy spoke to you?

A Friday night.

Q Friday night?

A Yes, sir.

Q You actually told Lucy to tell the housekeeper that you couldn't come in on Sunday?

A Yes, sir.

Q Now, the reason you gave her was what? And what did you tell Lucy?

A To tell the truth, I don't know whether I did tell her that I was going away. I am not sure. But I told her -- I remember telling her that "I am afraid I couldn't come in", but I don't know what else I said. I don't think I said very much of anything, because I was quite upset.

Q Did you tell her that you were expecting company and couldn't go to work?

A Expecting company? No. Because I was intending to go away.

Q Are you sure now that you didn't tell her that you were expecting company?

A The reason why I didn't say I was expecting company was because my sister had gone, and I wasn't expecting her back, because I had just got a telegram from my sister in Beloit. She wired me money to go to Beloit.

Q And you didn't tell Lucy all the details, you say?

A No, I didn't, because I was at a club meeting.

Q You what?

A Because I was at a club meeting, when I was told.

Q You claim you have a sister who is living at Beloit?

A She lives in Mississippi, but she was going to Beloit.

Q Do you have someone else--some other relative--in Beloit?

A My sisters. I have three sisters in Beloit.

Q You had one sister from Mississippi who was visiting your sisters in Beloit?

A Yes.

Q And you also said one sister was sick?

A Yes. You see, she had been here with me and had gone back to Beloit and she isn't very well.

Q What was wrong with your sister?

A Well, I don't know. She isn't very strong. She has been sick for three or four years.

Q Was there anything unusual about this last occasion that she was sick?

A Yes has just gone back home Tuesday. She has been awful sick.

Q What was the matter?

A Well, I don't know. The doctors say, you know, she has too many --

Q She what?

A You know, she has children too fast, the doctors said.

Q Did you go to Beloit?

A Yes, I did.

Q Did you say your sister there wired you some money?

A Yes, I didn't have any, but she sent it.

Q When did you come back?

A Sunday night.

Q When did you go?

A I went Saturday morning.

Q You went Saturday morning?

A Yes.

Q When you came back Sunday night, were you expecting to go back to work?

A Yes, I was thinking that I was going in Monday.

Q When were you told not to come back to work?

A A notice -- when anybody leaves a message, my kid always writes a notice, and she had printed on a big sheet of paper, "NOTICE," and said, "The

housekeeper sent word for you not to come in Monday" -- until she sent for me; so I said, "Well, I guess I won't go."

Q Now you are sure you didn't tell Lucy that the reason why you couldn't go to work was because you were expecting company?

A I say, if I said I was looking for company, I don't remember because I don't think I said that. I must have said, "I am going away," because I couldn't have been looking for company because my sister had been over here with me and Mrs. Fourston had met her. She had gone back to Beloit and I had just got a telegram that afternoon that she was asking for me to come.

Q But you didn't tell Lucy anything about the telegram?

A No, I didn't. I imagine that because we were having that club meeting I didn't care then to talk too much at the club meeting. I might have said "I am going to have company" or something like that -- you know -- so I wouldn't be bothered talking so much, but I don't remember what I said.

Q And you are sure you went to Beloit Saturday?

A Yes, I did. I have been there twice since then to see her.

Q Did you think you would be discharged in not going to work that Sunday?

A No, I didn't. I didn't think anything about it. I was just thinking, you know -- thinking I would go in Monday, but when I came back home Monday the notice was there, not to come in. I thought maybe she would send for me over the weekend, but she didn't, and so I went to the employment office to try to get work, and didn't get anything down there. And I would never voluntarily just walk off the job unless it was an emergency because I really need to work. I have two little grandchildren I am taking care of so I really need to work as far as that goes.

Q Is there anything else, Mrs. Beckley, that you wish to state in connection with this case?

A I guess not.

Q I mean, have we covered everything you want to testify about?

A I guess so.

MR. CRAWFORD: Could I ask a question here?

THE EXAMINER: Yes. Just wait a minute.

MR. CRAWFORD:

Q Mrs. Beekley --

A Yes.

Q You knew that we have played fair with you. You knew that we have been fair with you in case of sickness. You knew that we stretch a lot of lines. Isn't that right?

THE EXAMINER: Just a minute now. After you ask a question, let her answer.

A Well, yes, Mr. Crawford, you have been very fair with me, in a way, sure. But in the club meeting, where everybody was kind of -- you know -- in a club meeting, and I was quite upset and nervous, because I really get nervous when I am not working, because I have two children to look after, and when I am not working, I don't know -- maybe, sometimes I am really not thinking of what I am saying, but I don't remember what I told her, but I thought Lucy told me the housekeeper said not to come in -- I mean to come in that Sunday; and I said, "I am afraid I can't go, Lucy." But I might have said, "I am going to have company." But I don't know. I think I might have said "I am going to have company." But I don't know what I did say.

THE EXAMINER:

Q Have Mr. Crawford and the housekeeper been fair with you? Have they treated you well?

A Well, pretty well.

Q You have no complaints about treatment, have you?

A No, only about one complaint--one thing I could have complained about; but I didn't say anything about it.

Q The point is, don't you think that if you had come back to see Mr. Crawford on Monday and told him why you didn't come back to work on Sunday night, he might have taken you back?

A You see, she sent word not to come in until she sent for me. I didn't know—I thought maybe she was going to have me work week-ends, like—you know—like she had Gladys. I thought maybe she decided to let me come in Thursday afternoon, Friday, Saturday, and Sunday. I kept away. I thought maybe she would send for me then.

Q You didn't know that you were discharged? --

A No.

Q -- because you were not to come in Sunday?

A No, I didn't.

Q Otherwise, you might have gone down and spoken to Mr. Crawford?

A Yes. Sure, but she was to send for me.

MR. CRAWFORD:

Q Betty, don't you think it would -- that the housekeeper should have been given some consideration, and if you had sickness, the message came back to me that you had company and you couldn't come -- don't you think you should have come down and talked to the housekeeper and explained to her on Monday even if you thought that she was going to change you?

A But Mr. Crawford, after she told me -- sent word not to come in Monday, I think it would have been foolish for me to go over and look like I am hanging for a job. It would look like I was going begging for something. I am kind of independent. I haven't got anything, but I just didn't feel like it; and after she had sent word not to come in Monday, I don't feel like that was my place to go over there and ask for a job or tell her why I didn't come in on Sunday morning when she said not to come. I am willing to be fair, but I don't feel like it was right for me to go there when she told me not to come.

THE EXAMINER: Do you have any questions?

MR. TOWARD:

Q Yes, Mrs. Beckley, did you have the impression that you quit your job?

Did you ever have that?

A No, I didn't.

Q When they told you not to come in Monday morning?

A She said not to come in.

Q You felt that --

A (Interrupting) She said not to come in until she sent for me on Monday.

I thought maybe she will send for me on the weekends.

Q Did she ever send for you after that?

A No, sir.

MR. TOWARD: That is all.

THE EXAMINER: Do you have any questions?

MR. LANSOW: No.

THE EXAMINER: Is there anything else, Mr. Crawford?

MR. CRAWFORD: That is all.

THE EXAMINER: That is all, Mrs. Beckley.

(Witness excused.)

THE EXAMINER: Lucy, I want to ask you one more question.

LUCY FOUNTAIN,

Having been duly sworn, was recalled and testified
for the employer as follows:

EXAMINATION BY THE EXAMINER:

Q Are you sure that Mrs. Beckley told you that she couldn't come to work
because she expected company?

A That is what she told me.

Q That is what she told you?

A That is what she told me.

Q Did you actually know where Mrs. Beckley was on that Sunday?

A That I don't know. I only saw her that Friday night.

Q You didn't see her that next Sunday?

A No, I didn't.

Q You don't know whether she was in Milwaukee or whether she had gone to Beloit?

A No.

Q But you do recollect that she told you she couldn't work because she was expecting company?

A Yes, that is what she told me.

Q Did you know that her sister had been visiting her?

A Yes, I knew she had been to see her one Sunday I went by there.

Q But did you know her sister had left the city and gone to Beloit?

A No, I didn't go by the house any more.

Q You didn't know where her sister was?

A No, she was home some place.

Q Did you know whether or not her sister was sick?

A No, she didn't say.

Q Were you the one that was told by the housekeeper to notify Mrs. Beckley not to come to work on Monday?

A Yes.

Q How did you notify Mrs. Beckley of that?

A Well, I went by her house and she wasn't home. Her daughter was there.

Q What day was that?

A That was on Saturday, I think.

Q Saturday?

A Yes.

Q Afternoon?

A Yes, after we quit work.

Q Yes, and did you talk to Mrs. Beckley's daughter?

A Yes.

Q And what did you tell her daughter?

A I told her daughter to tell her mother that the housekeeper said not to come until she sent for her, and she said, "O.K."

Q Did you ask her daughter where Mrs. Beckley was?

A Yes, I asked her, and she said she was out.

Q She said she was out?

A Yes.

Q She didn't say where?

A No, she didn't. She said she was out and said, "I will tell her."
I said, "Don't forget to tell her."

Q Now, did you see Mrs. Beckley's sister when she was visiting Mrs. Beckley?

A Yes, sir.

Q Do you know whether she was sickly or not?

A No, I don't. I went in there for a little minute and she was there and introduced me to her sister.

Q You didn't see her very much?

A No.

Q You don't know whether she was sick or not?

A No.

THE EXAMINER: I guess that is all then. You will be notified by mail of the decision.

WHEREUPON THE HEARING ADJOURNED AT 2:15 P.M.

1-7-42
MLP

I, Matthew L. Peterson, hereby certify that as an official reporter for the Industrial Commission of Wisconsin I took in shorthand the proceedings had before the Commission in the above matter on December 15, 1941, at 1:00 P.M. and that the attached transcript is a true and correct copy of the same and of the whole thereof.


Reporter

INDUSTRIAL COMMISSION OF WISCONSIN

INDUSTRIAL COMMISSION OF WISCONSIN
UNEMPLOYMENT COMPENSATION DEPARTMENT

[1941]

In the matter of the claim of :
CLAIRE KELLY, :

Employe, Respondent. :

against :

Hearing No. 3446

The unemployment reserve account of :
HICKY BROTHERS, :

Employer, Appellant. :

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BEFORE THE
INDUSTRIAL COMMISSION OF WISCONSIN
UNEMPLOYMENT COMPENSATION DEPARTMENT

In the matter of the claim of	:	
CLAUDE KELLY,	:	
	:	
Employer, Respondent	:	
	:	
against	:	Hearing No. 3446
	:	
The unemployment reserve account of	:	
HICKEY BROS.,	:	
	:	
Employer, Appellant.	:	

Pursuant to notice, this matter came on for hearing before the Industrial Commission of Wisconsin, at Milwaukee, Wisconsin, on the 11th day of September, 1941, at 9:00 A.M.

APPEAL TRIBUNAL:

Austin T. Thorson, Commission Examiner (One-man Tribunal).

APPEARANCES:

The employe appeared by J. J. Hebanek, attorney.

The employer appeared by David Bloodgood, attorney.

WHEREUPON, the following proceedings were had:

MR. THORSON, The Examiner: I will review our record briefly in this case and we will attempt to define the issues as narrowly as we can and confine the testimony to the issues as much as possible.

Our records disclose that the claimant last worked July 6, 1941. The employer denies benefits, alleging that the claimant is not an employe, stating that the employe was in business for herself as a cigarette girl. The claimant alleges that she was an employe within the meaning of Chapter 108.

The initial determination of the deputy overruled the employer's denial of not an employee, stating that the record established that the employee was employee by the above employer within the meaning of Section 108.02(5m) of the Statutes. This determination is based on the best available evidence, including the employee's statement as to credit weeks and weekly benefit rate, and accordingly determines that the employee's claim was valid and that \$7.50 was the approved weekly benefit rate; and that 40 is the approved number of credit weeks against which benefits may be charged; and that \$180 is the maximum amount of benefits which may be payable under this determination. It is from that determination that the employer is appealing, alleging that the applicant was not on the payroll of Hickey Brothers, and that the determination is in error in claiming that she was an employee of the above-named employer.

I think the issue is very clearly a question of whether or not the claimant was an employee within the meaning of Section 108.02 (5m) of the Statutes.

I believe, however, before we start that there are probably a number of things that we can agree on and we can get it without dispute; for instance, the fact that Hickey Brothers is an employer subject to Chapter 108.

MR. BLOODGOOD, there is no dispute on that, is there?

MR. BLOODGOOD: No dispute on that.

THE EXAMINER: So that particular point won't be necessary to establish by evidence?

MR. BLOODGOOD: No.

THE EXAMINER: And I was wondering if we could reach some agreement as to the purely mathematical part, as to the number of weeks in which this alleged employment took place; that is, when it started and so on. Of course, that can come in in the evidence. It probably would be just as easy to get it in in that way.

MR. HANSEN: I don't think that would be in dispute. Some time in August,

two years ago, I believe it was.

THE EXAMINER: Off the record.

(Discussion off the record.)

THE EXAMINER: I believe that possibly it would be just as easy to get that in, evidently, in testimony as by agreement. Well, we will take the testimony of Hickey Brothers at this time, Mr. Bloodgood. When do you want to put on the stand?

MR. BLOODGOOD: Miss Towson.

MISS GLADYS TOWSON,
called as a witness for the appellant, having
been duly sworn, testified as follows:

THE EXAMINER: Now, make an effort to speak up loud so we can hear you. This man is writing down everything you say.

A All right.

THE EXAMINER: All right, Mr. Bloodgood.

DIRECT EXAMINATION BY MR. BLOODGOOD:

Q What is your name?

A Miss Gladys Towson.

Q Where do you live, Miss Towson?

A Hotel Randolph.

Q What is your position with Hickey Brothers?

A Manager and supervisor of the stands in Milwaukee.

Q Do you have complete charge of the Milwaukee district?

A Yes.

THE EXAMINER: Now, I am not hearing you very well. You are the manager and supervisor for Hickey Brothers?

A Of the two cigar stands in Milwaukee -- Hotel Schroeder and the Plankinton.

MR. BLOODGOOD:

Q When did you first meet the claimant in this action?

A When she came in in August, 1939, to see me about taking the concession.

Q Did she come to you of her own accord, or had you advertised?

A No, I hadn't. I had previously, but that was some time ago. I had a girl. She left. She came of her own accord.

Q What kind of an agreement did you enter into with this girl?

A The only agreement was that she was to buy the merchandise from our stand, at our retail prices; and what she got for it afterwards, why, we had nothing to do with it.

THE EXAMINER: You kind of fade off. Did you say, "And what she got for it afterwards you had nothing to do with it"?

A Yes. She bought it from me at straight retail prices.

Q Yes, and then you said --

A And then what she sold it for was her own business. I don't know what she got for it.

MR. BLOODGOOD:

Q Did she have any particular hours?

A Well, not in particular, outside of what the hotel had told her that the girls usually worked.

MR. HANUSE: I did not get that last statement. What did she say? What did she say about the hotel?

A The hotel had previously told me --

MR. HANUSE: (Interposing) Told you?

A Yes,--what the cigarette girls had usually worked; but I had never had any experience with cigarette girls before. So the hotel has that all to say.

MR. BLOODGOOD:

Q Did you require Miss Kelly to wear a uniform?

A No. She wasn't required to use a uniform.

Q Did you have the say as to whether she should work in certain parts of the hotel?

A No. I had nothing to say about that at all.

Q That was entirely up to the manager?

A Up to the manager of the hotel.

Q Did you have at any time what you might call "sales meetings" with Miss Kelly, and instruct her as to what she should do?

A No, never.

Q Did Miss Kelly always work every day?

A Well, at times she did, and sometimes she didn't.

Q If she didn't work, was it up to you to get someone else to take her place?

A Well, yes, at times, I had to, when we were busy, and she wasn't working.

Q Did she ask you whether she could have an evening off?

A She would ask me, and I would tell her to consult the hotel,--that she would have to ask the manager.

Q She had to ask the manager?

A Yes. She had to ask the manager, when she wanted any time off, or a night off.

Q Did you, at any time, pay Miss Kelly anything?

A Never.

Q No bonus?

A She received no salary or bonus, no.

Q No cash whatsoever from Hickey Brothers?

A None whatever.

Q Did you furnish any articles from which she sold -- like a tray, or anything like that?

A The cigar company furnished her a tray--a cigarette tray.

Q What company?

A American Cigarette and Cigar Company.

Q To your knowledge did they pay Miss Kelly anything for carrying that tray?

A Yes. I understand that she was given five dollars a month for that.

Q Did that money go through your hands?

A No. Not--that was mailed to her directly. I didn't know about it for some time.

MR. CLOBBGROD: I think that is all, Miss Towson.

THE EXAMINER: Just a minute. All right, Mr. Harush.

CROSS EXAMINATION BY MR. HARUSH:

Q You realize, of course, Miss Tawson, that this is a purely legal hearing?

A Yes.

Q I believe she was sworn ((to the Examiner)).

THE EXAMINER: Yes, yes.

MR. HANUSH:

Q And the testimony is given under oath?

A That's right.

Q How long have you been employed by Mickey Brothers?

A Eleven years.

Q In what capacity during those eleven years?

A Well, I worked three years just as a cigar girl, behind the cigar counter.

In the later years I have been manager and supervisor at various stands.

Q All over the country?

A In the chain, yes.

Q And you have had that particular capacity for the past eight years, as manager and supervisor, in various districts of the country?

A That is right.

Q And in that capacity you have had occasion in the past eight years to hire and fire various girls, at various different cigar counters?

A Yes, I have.

Q And they were employed and worked under your jurisdiction?

A They would be the only employees that come under my supervision.

Q Did you have any occasion to hire any cigarette girl before?

A No.

Q This is your first and initial step?

A That's right.

Q Has the Schroeder Hotel ever had a cigarette girl before?

A They had a girl there before I came here. You see, I haven't been here very long.

Q How long have you been in the Schroeder Hotel?

A A little over two years.

Q How long have Mickey Brothers been in the Schroeder Hotel?

A About four years.

Q Prior to the time you came there, Hickey Brothers were there, for about two years. Is that right?

A Yes.

Q And they had a cigarette girl there before you came?

A Yes, they did.

Q You don't know that cigarette girl, do you?

A No. I think they had a girl when they took the stand.

Q Now, in August, 1939, Miss Kelly came to you to apply for the position of cigarette girl. Is that correct?

A She came in and asked for the concession. She wanted to do business as a cigarette girl.

Q Now when you say "concession", were there any conversations as to what it was?

A Oh, yes.

Q Do you remember the conversation that took place at the time you hired Miss Kelly?

A Yes. She came in and wondered if I needed a cigarette girl.

Q That was about the contents of that conversation?

A Yes.

Q It was in regard to whether you needed a cigarette girl. Is that right?

A Yes.

Q And you said you did?

A I said I did—but that I wasn't hiring any right then, at that time.

Q You weren't hiring anybody?

A No. I just didn't want any at that time.

Q And then when she came back —

A (Interposing) No, she returned and just begged me to let her have the concession. She said she needed the work—needed a job.

Q And it was up to you to say whether or not you wanted to give her that so-called "concession", and you felt as though you wanted to give it to her.

A Well, I said "If you need the work, I'll be glad to let you take a tray and try it out if you want to."

Q Do you know under what circumstances the cigarette girl worked there previously, before you came there?

Q That was the same. In other words, she must buy her merchandise from us.
That was the understanding.

Q Does that same condition prevail throughout the country?

A Yes.

Q They have that particular type of concession, as you call it, throughout the country?

A Oh, yes. That's right.

Q Now, she became the concessionaire, as you put it, sometime in August?

A Yes.

Q What time did she have to come to work?

A Well, she came around seven, or after.

THE EXAMINER: A.M. or P.M.?

A That is P.M., in the evening.

MR. HANSEN:

Q No definite time?

A No. Around seven. That's what the hotel told means the best time for her to go to work. She always inquired when the best time was, or when the business would be there.

Q When you say the "hotel" told you, did you have anything to do with asking the hotel about the time?

A The hotel seemed to have an awful lot to say in that respect about anyone.

Q She was not employed by the hotel, was she?

A She was not hired by them, no, she wasn't.

Q The hotel had nothing to say about her time then, did they?

A Not to her directly. They told me and I told her two or three times.

Q Now, you say that she came around seven?

A Yes.

Q Would you say 6:45 was a little more accurate?

A No, it was a little more. Seven, or after seven.

Q And how late did she work?

A Well, her hours — she was supposed to work until one o'clock. Of course, I wasn't there all the time.

Q One o'clock—what time did you leave?

A Oh, I would leave around eight-thirty or nine o'clock—sometimes later.

Q And she bought her cigarettes from you?

A That's right.

Q What price did you charge her for the cigarettes?

A Our retail price.

Q The same price at which you sell to the customers?

A The same price at which I sell to the customers—that's right.

Q Now, the prevailing retail price today is 17 or 18 cents?

A That's right. 18 cents.

Q 18 cents, and you charged her 18 cents per package?

A That's right. 18 cents a package.

Q Were there any instructions as to what she should charge for those cigarettes?

A No. That was up to her.

Q How many days did she work?

A She worked six days a week.

Q Did she have an off-day?

A She had an off-day.

Q When was that?

A That was Monday night.

Q Monday night, and who gave her Monday night off?

A Well, that was customary, because the orchestra didn't play in the Empire Room Monday night.

Q Did you give her that Monday night off?

A Well, I told her that was the customary night off, with the girls.

Q Well, what time did she work Saturday evening?

A She came in around the same time.

Q And how long did she work?

A That, I don't know.

Q Were there any instructions as to what time she would have to work?

A None whatever. That was up to her.

Q Now that hotel has considerable conventions --in that hotel?

A Yes.

Q And these convention meetings probably last until the early hours of the morning?

A That I wouldn't know.

Q Did you give her any instructions as to remaining there during convention nights?

A None whatever. She had no instructions from me.

Q Did you give her any instructions as to the wearing of clothes?

A None. Only that if she wore something that the hotel didn't like, they would come to me and tell me that they did not like what she had on--what she wore.

Q Did you have any part in the designing of costumes?

A None whatever.

Q At no time?

A No. I am no designer.

Q And did she ever submit to you a pattern of a dress for your approval?

A No. I didn't see any pattern.

THE EXAMINER: Just a minute. What did you say?

A No.

Q Did you ever suggest how she should have her make-up put on?

A Well, the hotel complained to me that she wore too much, and then I would tell her that she had too much on at times, and that they didn't like it.

Q And you --

A--In turn, would tell her.

Q And when you say that the hotel at various times came to you, whom do you refer to?

A Well, to the management--the general management.

Q Mr. Linscoely?

A Mr. Linscoely and the others.

Q You maintain that you had no control over her activities at all?

A None whatever.

Q That if she didn't want to remain in the Empire Room, she could stay in the lobby. Is that correct?

A Well, I had nothing to do with that. She got her tray and wherever she went in the hotel, that was up to her.

Q Did you ever put in a call for her to go to the Crystal Ballroom, when she was in the Empire Room?

A No, I didn't.

Q Did you ever tell her to go to any of the various small rooms?

A No, I haven't.

Q Green Room?

A No.

Q Banquet Room?

A No.

Q At no time did you ever have any discussion as to her activities in the hotel. Is that correct?

A None whatever.

Q You are sure about that?

A Yes, sir.

Q During the two years that she was working there, how often, would you say, she had off, outside of her regular off days?

A I don't know what she had; she had quite a few days off.

Q How many days, would you say, did you have to substitute someone for her?

A I substituted, I think, three different times.

Q During the two years?

A Yes.

Q Did you procure the substitute, or did she procure the substitute?

A No, I had the girl that--that I had come in there to do that.

Q And was that girl paid?

A No. She did it on her own account.

Q Wasn't paid at all?

A No.

Q If she wanted to change her off day from Monday night to Wednesday night, did you ever permit her to do that?

A I told her that she would have to consult with the hotel.

Q You maintain that she wasn't hired by the hotel--was she?

A No, but they had an awful lot to say about it.

Q Well, did Mickey Brothers have control of the cigarette counter and the dispensing of cigarettes in that hotel?

A That's right.

Q You sell your cigarettes without any interference on the part of the hotel. Is that right?

A Yes.

Q If you wanted to charge 25 cents a package at the desk, you could do so, couldn't you?

A Well, I don't think that would be the proper thing to do.

Q Do you run a "Twenty-Six" game at that desk?

A Yes, we do.

Q Is that under the supervision of the hotel?

A No, but if they didn't want us to play it, we couldn't.

Q That is not under the supervision of the hotel?

A The stand--whatever we do at that stand--the hotel has an awful lot to say about it. That is not in our contract or lease.

Q Do you have a lease?

A Yes, we do. And anything that isn't right, why, they would let us know that they don't care for it.

THE EXAMINER: Did you say it was or was not in the lease?

A What?

THE EXAMINER:

Q Well, these various items that you claim the hotel seemed to either have authority over, or take authority over.

A Well, in our lease, there is that anything that happens that they don't like--why, they have a right to voice their opinion.

Q That is provided for in the lease?

A Yes.

Q Do you have a copy of the lease with you this morning, Mr. Bloodgood?

MR. BLOODGOOD: No.

THE EXAMINER:

Q Do you have a copy with you?

A No.

THE EXAMINER: Go ahead.

MR. HANSEN:

Q How many employees have you at the stand?

Q I have three girls.

Q Three girls employed at your stand at the Schroeder—or at the Plankinton?

A At the Schroeder.

Q And how many girls have you employed? --

A I have the same amount down there.

Q Three at the Plankinton? Is that correct?

A That's right.

Q These employees are all paid a salary?

A That's right.

Q What are they paid?

A Their salary?

Q Yes.

A Well, do I have to tell what their salary is? Various salaries. They are paid a salary by Hickey Brothers.

Q Are they paid a salary?

A Yes, they are.

Q Paid a salary regularly?

A That's right.

Q What is their salary?

A Well, it is varying--their salaries vary.

Q What would be the salary of the three girls at the Schroeder?

A Do I have to answer that? That's personal.

MR. HLOODEGOOD: I see no reason why.

THE EXAMINER: I don't see that there is any real objection to it. We deal with salaries all the time. I don't know why it should be a secret. I mean, I don't see that anybody is going to be hurt.

A It doesn't concern this case.

MR. KADUSH: Yes, it does.

THE EXAMINER: That's not for the witness to decide--whether it concerns the case or not. I see no objection to your answering the question. Answer the question.

A Well, approximately \$90 a month.

MR. KADUSH:

Q That is the lowest salary at which they are employed at either one of the hotels?

A Yes, approximately. It runs from \$85 to \$90.

Q And have you ever had any girls working there who have obtained less than \$85 a month?

A Oh, when a girl is in training, when she is a new girl, being trained behind the cigar stand, for the position.

Q What do you call "in training"?

A A girl goes through a training period behind a cigar stand, for two or three weeks.

Q Two or three weeks training period?

A Before she works by herself, yes.

Q And when she is in training, -- what does the training course consist of?

A Oh, learning the prices of the various merchandise.

Q Oh now, you know very well there isn't very much to learn about the prices of cigars. They are all identified and marked on the boxes, aren't they?

A No. They are not.

Q Aren't the prices indicated and marked on every cigar box?

A Oh, on the cigars--yes. But there are cigarettes.

Q And isn't there a uniform selling price on the cigarettes?

A Yes. There are different brands.

Q And each brand is labeled? They are identified by name?

A By the name of the cigarette, yes.

Q That's right. And when these girls are in training, you pay them a dollar a day, don't you?

A No, sir.

Q What do you pay these girls?

A \$75 a month.

Q You have paid every girl that \$75 a month? Every girl in training?

A That is what the rate is now.

Q Starting when?

A I don't know, but that's recently that girls have been getting that.

Q For the period of time you have been there, you have hired girls for a dollar a day, haven't you, Miss Towson?

A I don't recall.

Q You don't remember hiring anybody at a dollar a day?

A No.

Q Is there anybody else who does hiring for Hickey Brothers?

A Oh yes. Our office in Davenport, Iowa hires girls, and sends them around.

Q But you have charge of hiring every girl in the Milwaukee area, don't you?

A No.

Q I mean—who applies to you—don't you?

A Not necessarily. I could send the application in to my office, and perhaps they wouldn't care for her,—any girl that is hired in Milwaukee.

Q The office first has to contact you?

A Oh, yes.

Q And you have the final determination as to whether or not you want her to be employed at either the Flankinton or Schroeder Hotels?

A It has to go to the office.

Q Subject to the approval of the office?

A That's right. It is subject to the approval of the office.

Q And you have the right to set their salary?

A No. They set that.

Q They set that at Davenport, Iowa?

A That's right.

Q And for the past two years you have had a considerable change of help in the training period, haven't you?

A Well, that is, it happens, I guess, in all businesses.

Q You hire a girl at a salary, and during these two years, you have hired girls at a dollar a day, haven't you?

A I don't recall hiring a girl for a dollar a day.

Q You say that isn't a common practice?

A No, it isn't.

Q Would that be the unusual case, the exception, rather than the rule?

A Well, I suppose it would be.

Q Do you recall an instance when Miss Kelly injured her knee and she came to you and asked you to go home and you told her she couldn't leave?

A I don't remember that at all.

Q Do you remember that she consulted a doctor at the hotel, or who was connected with the hotel who bandaged her knee and she limped around for two days?

A I know nothing about that that she injured her knee or something.

Q And did you refuse to allow her to go home?

A I never refused her anything.

Q She never came to you?

A No, she didn't.

Q Did she ever come to you and ask for time off?

A She asked me and I told her to see the manager of the hotel.

Q You said you had nothing to do with giving her time off?

A I told her to see the manager.

Q Did you ever tell her to get substitutes for her job?

A No.

Q In the event she took a day off, or an afternoon off?

A No.

Q Now, as to the price -- for how long a period of time did you say that she was selling them at the selling price you sold her these cigarettes?

A Repeat that.

THE EXAMINER: I don't think that question is clear.

MR. HARBOSE: I will try to clear that.

THE EXAMINER: Just a minute. Read it back.

(The last question was read by the Reporter.)

MR. HANSEN:

Q Do you understand the question?

A No, I don't.

Q You sold these cigarettes to her at 18 cents?

A That is right.

Q Do you know what she resold those cigarettes for to the public?

A I do not.

Q Do you know that she sold those cigarettes to the public for 18 cents per package, the same price that she bought them from you?

A I know nothing about that, what she did after she bought them from me.

Q Did she ever ask you for permission to sell those cigarettes for 25 cents a package?

A No, she didn't.

Q At no time?

A No.

Q You said she never got a bonus?

A No.

Q Did she ever win a prize for selling the most cigarettes of any girl in the hotel, or any hotel?

A She did win a five-dollar prize. That was a prize given to all our hotels for all cigarette girls.

Q That prize was put up by Hickey Brothers, wasn't it?

A Yes.

Q And she won the prize for selling the most cigarettes -- you gave her that?

THE EXAMINER: Just a minute. Your answer was what?

A Yes.

MR. HANSEN:

Q And you gave her that bonus money or prize?

A Yes.

Q It came direct from Davenport, or was it taken out of your till?

A No, it came direct from Davenport.

Q Then did you check up with her on cigarettes?

A Every evening, when she came in to work.

Q When she came in?

A Yes.

Q Just outline the procedure of what you did.

A Well, I checked up the merchandise that she had sold and collected the money.

Q For what, the evening previous?

A Yes, for the evening previous.

Q Did she ever have to pay you in advance?

A No.

Q And when she took cigarettes, she had no right to take any cigarettes from behind the counter without your permission?

A That is right.

Q You had to give her those cigarettes yourself?

A That is right.

Q And did you debit her for the amount of the packages that she took at 18 cents a package?

A That is right.

Q You left at eight o'clock, is that correct?

A In the evening?

Q Yes.

A Well, eight or nine.

Q Nine -- what time did you close your counter?

A The stand was closed at twelve during the week, and at one on Saturday nights.

Q After you left did any other girl have permission to sell her any cigarettes?

A Oh, yes.

Q And that stand closed at twelve o'clock?

A During the week, yes.

Q Assume that she ran short of a certain brand of cigarette, was she permitted to go out and purchase that brand of cigarette from any other place?

A No, she didn't. She didn't have that permission; but it wasn't necessary when the stand was closed. There was merchandise at our desk, at the hotel desk, that she could go over and get.

Q Did she ever ask you for permission to buy other brands of cigarettes anywhere else but from you?

A No, she never mentioned it.

Q Did she ever ask you if she could get those cigarettes at wholesale or at the jobber's price?

A No, I don't believe it was ever discussed.

Q As a matter of fact, you told her she couldn't buy those cigarettes from any place but from your stand?

A That is what is in our agreement with the hotel.

THE EXAMINER: Just a minute. Finish. "That is what is in our agreement with the hotel." You were going to say something more.

A That all merchandise, all cigarettes and cigars that is handled at the hotel should be handled through our department.

THE EXAMINER: Go ahead.

MR. HANSEN:

Q When you speak of the agreement you are speaking about the lease?

A Of our lease, that is right.

Q Have you a copy of that?

A No, I haven't.

MR. HANSEN: Well, I wonder if I could make a formal demand for that to be produced to the Examiner?

THE EXAMINER: Well, do you have any knowledge where the lease is, Mr. Bloodgood?

MR. BLOODGOOD: I suppose it is at Davenport, I don't know.

THE EXAMINER: Well, I think that there seem to be a lot of things referring to that lease, and I believe I would like a copy of it. Off the record.

(Discussion off the record.)

THE EXAMINER: Well, can you get a copy for us, Mr. Bloodgood?

MR. BLOODGOOD: I will try to.

THE EXAMINER: All right. Now, what is the last question, Mr. Reporter?

(The Reporter read the last question and answer.)

MR. HARBUR:

Q Does your lease provide for the hiring of a cigarette girl?

A Well, I am sure I don't know.

Q It probably gives you the sole right to dispense cigarettes?

A Cigarettes and cigars.

Q It gives you the sole right?

A That is right.

Q And whatever you do with the selling of those cigarettes at the hotel is your business, is that correct?

A That is right. That is right.

Q And for that particular agreement of selling those cigarettes, that lease was made out?

A That is right.

THE EXAMINER: I wonder if it would be very difficult to get a copy of that lease?

MR. BLOODGOOD: I suppose we could get one from Davenport, or have you got one?

A No.

MR. BLOODGOOD: Well, I believe that these questions regarding the lease should be subject to what is in the lease. That is her idea of what is in the lease, but until we have a copy --

A (Interposing) That is right. That is just --

MR. BLOODGOOD: You see, her statement is ^{not} definite. That is her opinion.

THE EXAMINER: I wonder if it would be possible to borrow the hotel's copy. Do you have any connection with the management over there?

MR. BLOODGOOD: No, I have no relationship with them. I would be glad to call them and ask them if they would give me their copy

THE EXAMINER: Off the record.

(Discussion off the record.)

THE EXAMINER: We will take a recess.

(Recess -- 10:00 A.M.)

(Hearing resumed at 10:05 A.M.)

THE EXAMINER: We have a certain amount of time limitation on this particular hearing.

MR. HARBUSH:

Q Now, it is my understanding, Miss Towson, that you maintain you had no control over Miss Kelly as to hours of employment, mode of dress --

MR. BLOODGOOD: Answer.

A Yes.

MR. HARBUSH: Well, wait until I am through with the question.

MR. BLOODGOOD: Excuse me.

MR. HARBUSH:

Q And parts of the building where she was to go?

A That is right. I had nothing to say.

Q You have given her no directions?

A That is right. I gave her none whatever.

- Q In other words, your contention is that she operated purely on her own?
- A Strictly on her own.
- Q And was subject to no censorship or control by you or your company?
- A That is right.
- Q She could do anything she pleased, is that correct?
- A That is right.
- Q And if she didn't feel as though she wanted to come to work she didn't have to come to work?
- A Well, that was up to her. She would phone and I would say one would have to call the hotel, call somebody at the hotel.
- Q She wouldn't phone the hotel directly, but she would phone you?
- A She would phone me and I would tell her she should get in touch with them.
- Q Why did you have to tell her that she should get in touch with them?
- A Well, the business was there. She would call them to see if they were busy enough for her, to warrant her coming to work. Often she would do that.
- Q But you have got full charge of the selling of the cigarettes?
- A The cigarettes, yes.
- Q And it is certainly not any business of the hotel, or they certainly would not interfere in the sale of these cigarettes, would they?
- A They often would come to me and ask where she was when she wasn't working.
- Q Because they felt that she was part of your department, isn't that right?
- A No, they thought that their guests deserved that service, of having a cigarette girl in there to wait on them.
- Q The hotel didn't hire her, did they?

A No, but Mr. Limescooly interviewed her when she came in and asked for the concession.

Q Did she interview you?

A She talked to me and he talked to her.

Q And were you present at this conversation?

A No, I wasn't. She went into his office.

MR. HANUSH: That is all.

MR. BLOODGOOD:

Q Just one more question: At the time Miss Kelly left the hotel as concessionee, or whatever you might call her, did you ask her to leave?

A No, I didn't.

Q Who asked her to leave?

A Mr. Limescooly.

MR. BLOODGOOD: That is all.

MR. HANUSH:

Q Just a minute, did you tell her to leave?

A No, I didn't.

Q Did you have anything to do with the actual conveying of the message to her?

A Oh, no.

Q You had nothing to do with it?

A Not at all.

Q Do you know the reason why she left? Was she forced to leave, or was she told to leave?

A Only what Mr. Limescooly told me.

Q And what was that?

A That she was having trouble with the manager of the cocktail lounge.

MR. HANUSH: That is all.

THE EXAMINER: Just a minute. I have a couple of questions for you.

Q The termination of the relationship, whatever it was, was brought about by Mr. Linscooly, manager of the hotel?

A That is right.

Q Did he tell you to tell her that she couldn't work, or did he tell you that she was through?

A No, he told her himself, that she was through.

Q Then how did you learn about it?

A Well, he told me the next day.

MR. SLOOOOODOO:

Q Oh, you weren't there at the time?

A I wasn't there at the time.

Q I see.

A No, I wasn't there at the time.

THE EXAMINER:

Q Did Miss Kelly talk to you, or mention to you what had happened? Did you see her after the termination took place?

A Oh, yes. She came in the next night and I told her I had gone over the matter. He said he didn't want her and I had no alternative but to check her merchandise and take it back, which I did.

Q Now, couldn't you have retained her if you wanted to?

A No, Mr. Linscooly didn't want her.

Q Well, was there anything in your lease, that you know of, that says that all of your people that are connected with the stand will have to be approved by Mr. Linscooly?

A Well, that is right. I don't know if that is in the lease or not. I don't know that.

Q You don't know whether it is in or not?

A No.

Q Well, it is apparent that the hotel has a lot to say about everything.

A It is conduct of the employees, or the people in the hotel, that they have the conduct. I know, of the employee of Hickey Brothers or anybody connected with the hotel, the management has everything to say about it.

Q Have you ever seen the lease?

A No, I haven't.

Q You haven't?

A No, it has nothing to do with me at all.

MR. BLOODGOOD: These statements that you are making are just your opinion as to what is in the lease?

A Well, whenever anything came up like that, the hotel management always reminded me. That's how I got it.

THE EXAMINER:

Q Have you ever read the lease?

A No, I haven't.

THE EXAMINER: Off the record.

(Discussion off the record.)

THE EXAMINER:

Q With reference to the matter of a uniform or dress, do you claim that you made no specifications as to what she should wear?

A Nothing, only the management didn't like anyone to wear -- lack clothes or anything; and she asked me what she should wear, and I said, "Anything in a nice dark dress."

Q Did you say that you never made any suggestions or criticisms of what she wore?

A Only when the hotel management complained about what she wore, and I would convey it to her.

Q Did they complain to you of what she wore?

A Oh, yes. Some times about the way she looked and they mentioned it to me and I should tell her.

Q Now, was that with reference to the clothes she had?

A And her makeup at times.

Q Did she make any changes after you registered these complaints from the hotel?

A No, she didn't.

Q If it had not been for Mr. Lineebely terminating the relationship, or insisting or stating that he didn't want Miss Kelly at the hotel any more, she would still be working there, is that right?

A That is right, she would have.

Q Have you anybody there that is replacing her?

A Well, I have a girl that was, but she is off now.

Q And when did you get this other girl to replace Miss Kelly -- shortly after Miss Kelly left?

A Some time -- she came in and, and asked for the concession.

Q How did you get in contact with her?

A She just came in.

Q The same way that Miss Kelly came in?

A That is right.

Q Did you say she is not working now?

A No.

Q Do you have anybody doing that?

A Not at the present time, no.

Q Are you planning to have someone during the Legion convention?

A During the convention, yes; oh, yes.

Q Have you ever asked Miss Kelly, or any of the cigarette girls, what they were charging for cigarettes or cigars, or whatever else they sell?

A No, I never asked them.

Q Would you raise any objections to their, say, charging 50 cents a pack for cigarettes?

- A It wouldn't make any difference to me but I imagine if they did the customer would complain. I imagine he would say something.
- Q If the customer complained to you, would you do anything about it then?
- A Well, I would ask her if that was the truth and I thought it was too much -- the customer complained.
- Q Assume that it was the truth, that she charge 50 cents a package?
- A Yes.
- Q Then what?
- A Well, I would ask her if she thought she treated the customer right. I would report to her that the customer complained to me about it.
- Q And supposing she said she had treated the customer right when she told him it was 50 cents and he could take it or leave it?
- A There wasn't anything I could do about it.
- Q Would you ask her to reduce the price?
- A No, I would have nothing to do with it. I had no say in that matter at all, about the price she was to charge.
- Q Now, how was she expected to make money in this proposition?
- A Tips, and whatever price she could get for the cigarettes over the retail price.
- Q Well, do you know whether or not she sold them at more than the retail price?
- A Oh, yes. She mentioned that.
- Q I mean, was that the practice, for instance, to sell packages which ordinarily sold at 15 cents for 25 cents?
- A For 20 and 25 I imagine the girls sold them.
- Q Do you know what she sold them for?
- A Well, she mentioned several times she charged 25 or 20 and different prices.
- Q Now, do you know how much she made a week at that?

A She mentioned some times she made 20, 23, 25 dollars a week.

Q And now with reference to the time that she worked -- she started some time in August, 1939, and was there until July 5, 1941?

A That is right.

Q And she was there regularly every week, is that right?

A Well, outside of the days that she took off occasionally.

Q With the exception of the days that she took off, she worked steadily during that period?

A Yes.

Q Is your answer "Yes"?

A Yes.

Q Well now, if any one were to give Miss Kelly orders from Hickey Brothers it would be you, is that right?

A Yes, it was left -- it was up -- left to me. The management would speak to me if anything that was -- that she did unsatisfactorily and I would, in turn, tell her what they had said.

Q Did the girls at the counter have any right to check up on Miss Kelly's hours, or her work, or anything of that sort?

A Oh, no. No one had.

THE EXAMINER: I guess those are all the questions I have.

MR. BLOODGOOD:

Q One more question -- do you know, of your own knowledge, whether Miss Kelly did any other work besides working, selling cigarettes at the hotel?

MR. HABESH: I object to that as being immaterial.

THE EXAMINER: What was the question? Read the questions.

(The question was read by the Reporter.)

THE EXAMINER: I think that is a perfectly valid question.

Answer.

A Yes, she danced -- did professional dancing.

MR. BLOODGOOD:

Q Do you know where she danced?

A I understand she danced -- it was in the newspaper, in the newspaper -- out at two parks.

THE EXAMINER:

Q Well, you have never seen her dancing at those particular places, have you?

A No.

Q You understand that she did?

A Yes.

THE EXAMINER: All right. Just a minute. Let's see if Mr. Bloodgood is through.

MR. BLOODGOOD:

Q Did she ever ask you for any time off so that she could dance?

A Oh, yes. She asked for this time off to dance that day out at the park.

Q That is how you happened to know about it?

A Yes.

MR. BLOODGOOD: That is all.

THE EXAMINER:

Q What was that park, did you say? What park was that?

A One was Washington Park, I think; and the other one -- I can't pronounce it.

MR. BLOODGOOD:

Q Keesiusko?

A I think that is it -- a Polish name.

MR. HANSEN:

Q Now, as you testified before, she was off about three days during the two years that she was employed in your place, outside of the regular off days on Monday night, is that correct?

A Why, I say she was off longer than that. She usually took her vacations -- would take a vacation in the summer -- asked for time off at that time.

Q Did she have a vacation in the two years she was employed at your place?

A Oh, yes, she took a vacation.

Q How many days?

A A week, I think.

Q Do you recall when?

A It was around the time when I took my vacation, around July or August.

Q When you took your vacation?

A That's when I always took my vacation, during the quiet time; and she thought, perhaps, that would be a good time for her to take her vacation.

Q You are definitely positive that she took a vacation at the time you took your vacation?

A To my knowledge, I thought she did.

Q You weren't at the hotel, were you?

A No, she had mentioned that she was going to.

Q You don't know whether she was gone at the time you were gone or not, do you?

A Not all the time, no.

THE EXAMINER:

Q You are speaking of which August -- August, 1940?

A Yes, '40. This past one is when she took time off. I think she went home.

MR. HARTSHORN:

Q How long was she at home?

A That I don't know. It was a day or so, and then she took time off

to dance on the Fourth of July.

Q And was that an afternoon or evening exhibition?

A I don't know whether it was the afternoon or evening but she took part of the day off.

Q She did?

A Yes.

Q Did she have somebody work in her stead?

A No.

Q Did she procure anybody else?

A No.

Q Did you get anybody to work that day for her?

A No.

Q You don't know whether she received any pay from this dancing, do you?

A No, I don't.

Q You don't know whether she was a professional or an amateur?

A No.

Q All you know is what you saw in the paper?

A She mentioned she was going to work out there.

MR. HADEN: That is all.

THE EXAMINER:

Q Just another question or two -- do you know what Miss Kelly did before she came to work for Hickey Brothers?

A Yes, she said she was a cigarette girl at that time.

Q Did she say where?

A Coliseum at Chicago, and the Club Terris here.

Q What was this place?

A The Coliseum also.

Q Do you have cigarette girls in your other stands throughout the country?

A Oh, yes.

Q Do you know what the arrangements are between Hickey Brothers and the cigarette girls at these other stands?

A The same arrangement that we had here.

Q I don't think we have it in here formally -- what is the business of Hickey Brothers?

A Cigars and cigarettes.

Q Retail cigars and cigarettes?

A Retail and wholesale.

Q Then they do have business other than operating cigar and cigarette stands in hotels, is that right?

A Yes, they have cigar stores as well, and they do wholesaling.

Q Do you sell things other than cigars and cigarettes at these stands?

A Yes, novelties, pipes, smoking accessories of all descriptions.

Q Also papers?

A Newspapers and magazines.

THE EXAMINER: All right. I guess that covers everything.

Does that conclude the testimony for Hickey Brothers?

MR. BLOODGOOD: Yes, I have no further questions.

THE EXAMINER: All right, Mr. Habush?

MR. HABUSH: All right.

(Witness excused.)

MR. HABUSH: Miss Kelly.

MISS CLAIRE KELLY,
called as a witness in her own behalf,
having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HABUSH:

Q Your name is Miss Claire Kelly?

A Yes.

Q How old are you?

A Twenty.

Q Where do you live, Miss Kelly?

A 1110 East Wisconsin.

Q Were you an employe of Hickey Brothers?

A Yes.

MR. BLOODGOOD: I object to that.

THE EXAMINER: All right.

MR. HANUSH: I will withdraw it.

THE EXAMINER: Maybe we can make some arrangement.

MR. BLOODGOOD: She is the claimant in this case.

MR. HANUSH: Yes. I will withdraw the question.

THE EXAMINER: Yes, it is sort of begging the question in a way.

MR. BLOODGOOD: We could use some other terminology better probably.

MR. HANUSH:

Q You went to see Miss Tossan at the Hotel Schroeder in reference to employment?

A Yes.

Q Just a minute -- some time in August, 1937?

A That is right.

Q And how did you happen to go there?

A Well, you see, I was a stranger. I got into Milwaukee, and I had worked as a cigarette girl at the, three weeks at the Terris, and I heard about the Schroeder, that they needed a cigarette girl there and I went down and applied for the job. And I didn't find her at the Schroeder, but I found her at the Plankinton and I talked to her and I filled out an application; and about a week later she called me to go to work.

Q You filled out an application?

A Yes.

Q Is that an application for employment?

A Yes, to Hickey Brothers, and they ask how old you are, and what you have done, and what you know.

Q All the qualifications?

A That is right.

Q And at the time you discussed this matter of going to work for Hickey Brothers, were there any terms or conditions set up by her?

A Well, I was supposed to take the job and sell the cigarettes at the same retail price, and what I made on tips was mine.

Q Now, did she set the retail price that you sold them for?

A Pardon?

Q Did she set the prices at which you were to sell the cigarettes?

A That is right.

Q And you were to retain any tips that you got?

A Yes.

Q As a result of those sales?

A Yes.

Q What time were you supposed to start to work?

A At a quarter to seven I was up at the counter -- that was fifteen minutes to check up so at seven I would be on the floor.

Q Did she explicitly tell you that the time was 6:45?

A Yes.

Q Did she give you any instructions as to the hours you were supposed to work?

A I was supposed to work until one o'clock.

Q Was that every night?

A That is right.

Q And how about Saturday night?

A Until two.

Q And were those explicit instructions which she gave you?

A That is right.

Q And how about times when there were conventions in the hotel?

A I was expected to stay after hours because if I went the people wouldn't have their cigarettes and we are expected to remain.

Q And who mentioned that to you -- was that mentioned to you by any one?

A Yes, it was.

Q By whom?

A By the manager.

THE EXAMINER: By whom?

A Gladys.

MR. HANSEN:

Q Gladys whom -- Miss Towson?

A Miss Towson.

Q Now, did you have any discussion as to your time off?

A Yes, we did. I was supposed to have every Monday off, but if she wanted me to go to work on Monday on my day off I had to come if there was a convention or something, and then I wouldn't get that day off that week. I would work three weeks in a row without a day off.

Q She didn't give you an opportunity to make up that day off?

A No, she didn't give me any opportunity, and I just let it ride. I never said anything.

Q Did you ask for Monday to be your day off?

A No, she just gave me Monday off.

Q Now, during the time you have been employed there, have you ever asked for any other day off?

A Once in a great while I would ask for a day off, and some times I got it and some times I didn't.

Q Other than Monday?

A Other than Monday, and that was just in recent -- just recently.

The first year I never bothered.

Q Now, was there any discussion as to your clothes?

A Definitely.

Q What?

A When I first started I was to wear a black and white dress, and I

wore that for quite some time, and then I designed one of these

sort of Phillip Morris suits and I wore that for quite some time.

And I had another uniform that -- I have had several of them during

the time I was there, but one of them, I can remember very definitely,
Gladys chose my colors,

/s blue and white satin blouse and blue jumper and also a black jumper

and white blouse. And one night when I first wore the blue jumper

and white blouse she didn't like it and I said I had her approval.

She made me go home and change, so I had to go home and change my

uniform and come back to work.

Q She made you go home and change your dress?

A Definitely.

Q Could you wear your ordinary street clothes there?

A No, I never did.

Q Would she permit you to wear your ordinary street clothes?

A No.

Q Did she tell you that you couldn't?

A Definitely.

MR. HANSEN: Off the record.

(Discussion off the record.)

A Outside of Sunday night, I could wear street dress. Sunday night

I didn't have to be in my uniform.

Q Did they ever pay you for any of the uniforms?

A No.

Q You had to purchase those with your own money?

- A That is right. She would tell me Mr. Hickey was coming and I had better get my new uniform. I just had to get it.
- Q Now, did you ever have any occasion to take off from work while you were there?
- A No, I don't think I have -- oh, yes. I had my tonsils out, and I had one day off. You see, Monday was my day off. I had my tonsils out Monday and I was expected to go back to work Tuesday night but I couldn't and I was sick Wednesday night, but I had to go to work.
- Q Did you procure a substitute?
- A She would not -- never let me have somebody else work for me.
- Q She didn't?
- A No.
- Q Did she hire anybody in your place?
- A No, no other girl has ever worked. I know my tray has never been touched the next day when I come to work. It was always the same.
- Q Now, just what were your duties in the hotel?
- A Well, I was supposed to keep walking from the cocktail lounge to the Empire Room. When they had a banquet in the Crystal Room and Green Room I would go through them into the parlor, and a lot of times if I am in the Empire Room they would call from the Crystal Ballroom. I had to keep moving.
- Q How would they know where you were?
- A Well, they would call the cigar stand and somebody behind the cigar stand would tell me, or they would call the Empire Room probably and the manager usually would call the Empire Room and I would go up to the Crystal Ballroom.
- Q Could you remain in one place at the hotel or in one room in the hotel all night?
- A Oh, no, no. I had to make all these rooms.
- Q You could not remain in the Empire Room?
- A That is right.

Q You had to be shifting around from one to the other rooms where they had parties, conventions, and meetings, is that correct?

A Yes.

Q Now, when you first started to work there the price was fixed at 10 cents?

A Yes.

Q That you were supposed to sell the cigarettes for?

A Yes, Miss Towson told me to go out on the floor and sell them for the retail price, and I did that for a few days and I didn't make anything, and so I asked if I could sell them for a quarter, and her and the manager agreed that I could sell them for a quarter, and then I did.

Q Was the manager of the hotel present at the time you spoke to Miss Towson?

A No, I spoke to Mr. Peterson the night, one night after I was almost through working and then I talked to Miss Towson the next night.

Q What did Mr. Peterson say?

A He said I should tell Gladys about it -- Miss Towson about it.

Q And he suggested that you take the matter up with Miss Towson?

A That is right.

Q And if she okayed it it was perfectly all right for you to do so, is that correct?

A Yes.

Q Then you started to sell them at 25 cents a package, is that correct?

A Yes.

Q Have you taken any vacation since you have been there?

A No, I haven't had any vacation at all, but I was planning on a vacation this fall. That would have been the first vacation I would have had, outside of Christmas time when she let me have two days off to go home and then come back, and at Easter time, that is all.

I hadn't any vacation at all.

Q Did you ever have any discussion as to whether you could buy your merchandise elsewhere?

A Yes, I have.

Q What did you tell her?

A Because there were several times when I checked up with her and I happened to have a package of cigarettes with different stamps on them and I was questioned as to where I got the cigarettes, and through that we had the discussion.

Q Did you ever ask her whether you could buy your cigarettes from any other place than the counter?

A Yes, yes, I have.

Q What did she say?

A Definitely no. That's --

THE EXAMINER:

Q What was that?

A No.

Q What was the last of it? You said, "Definitely no" and then what?

A I was working for Hickey's.

MR. HANDSH:

Q Did she ever say anything to you about your makeup?

A Yes, she has.

Q Had anybody else at the hotel mentioned it?

A No.

Q Miss Townson was the only one?

A Miss Townson.

Q And when she made any suggestions to you as to your makeup or your dress did you conform?

A I had to.

Q When you say you had to, why?

A Well, she would tell me to go to the checkroom and either take off some lipstick, or put some rouge on.

Q You checked up with her every night, is that correct?

A Yes.

Q And you had to pay her for the cigarettes you purchased?

A At retail.

Q At the retail price. And was there anybody else that you had to report to at the hotel?

A No.

Q Was there anybody else who gave you any orders but Miss Towsen?

A No.

Q Did anybody from the hotel; that is, Mr. Linscooky or Mr. Peterson, or anybody, have any right to tell you what to do?

A Well, Miss Towsen always gave me my orders.

Q And there wasn't anybody else?

A No.

Q And when she was gone at eight o'clock?

A If there was anything I ever wanted to know, then I would ask the manager of the hotel.

Q Now, with respect to your doing other work, did you do any dancing professionally while you were employed at the hotel?

A Yes, I did dancing once in a while on Monday night. I was just practicing routines, but I didn't draw any salary or nothing. I was just breaking them in.

Q You were just starting?

A That is right.

Q Well, you did dance?

A At Washington Park and Kosciuszko.

Q And you got no pay for those performances, did you?

A No, I didn't. I just donated the time to the parks.

Q You couldn't very well dance outside, being employed every week night but Monday, could you?

A No, and if I had I never could go, as I couldn't have a substitute.

I could have done more dancing, but I never could have a substitute.

Q Did you ever have any occasion to come late?

A I have several times, and when I did, catching a train coming home at Christmas or something -- we got snowed in twice -- a few hours late, and I know a couple other times I was a few minutes -- then I always had to give my reason why I was late.

Q You had to make an explanation?

A That is right.

Q Why you were late?

A Yes.

Q Were you ever called down because you left early, or before closing time?

A No. I always waited until closing time, outside of on Sunday I quit a little earlier.

Q Have you ever worked until three o'clock in the morning?

A Yes, I have worked later than three o'clock in the morning.

Q You were injured one day while you were working there, is that correct?

A Yes.

Q You slipped on --

A (Interposing) Yes, I fell on the steps.

Q You fell on a step -- were you allowed to go home?

A No, I wasn't -- well, it was just about quitting time when I fell and so I stuck it out.

Q Did you come to work the following day?

A Yes, I did.

Q Did you ask to take off?

A Yes, I did.

Q Did she give you permission to take off?

A No.

Q Was your leg bandaged?

A No, you see, I came to work the next day. My knee was all bruised, and it pained me something terrible. And I told the manager of the hotel, and he referred me to the hotel doctor the following day, and then that incident occurred to the -- injury to the knee. That's why I had my knee bandaged. I will explain that fully.

Q You didn't lose any time because of that injury?

A No, I didn't. I worked right straight through.

Q Do you know whether or not any other employe of Hickey Brothers was under the same arrangement as you were?

A No, I don't.

MR. BLOODGOOD: I object to that.

MR. HANSEN: She said she didn't know.

THE EXAMINER: He just asked if she knew. She said she doesn't know.

MR. HANSEN: That is all.

THE EXAMINER: Mr. Bloodgood?

CROSS EXAMINATION BY MR. BLOODGOOD:

Q Did you say that in the evenings you would be asked to go from one room to another?

A Yes.

Q And who would give you those instructions?

A I was given them by Miss Towson, when I started.

Q And what would happen after Miss Towson left?

A Why, I just had to go from one room to another.

Q Did you expect that somebody would call in and ask you?

A Sure, if I was down in the Empire Room and they wanted me in the Crystal Ballroom, the manager would call the Empire Room and send me up to the Crystal Ballroom.

Q Do you mean the manager of the hotel?

A I mean the manager of the banquet.

Q That wasn't Miss Towson?

A What?

Q Was that Miss Towson who asked you to do that?

A She has asked me a lot of times.

Q I am asking you whether --

A (Interposing) Both of them did.

Q After Miss Towson would leave, who would give you your instructions?

A Well, I always got my instructions before she left.

Q How could she call you from the banquet room, or some other room?

A Well, there were banquets or dinners that she would be there and there were banquets when she wasn't.

THE EXAMINER: Well, now, answer the question. The question is: Who called you to the Empire Room, or to the Crystal Ballroom? That is the way I understand the question. Answer.

A Well, some times it would be Mr. Depke who would call down in the Crystal Ballroom, would call the cigar stand, and if Miss Towson was there she would send me up; or, if one of the other girls was there, she would send me up.

MR. BLOODGOOD:

Q The instructions came from Mr. Depke?

A No, he just asked if the cigarette girl came up, but my instructions all came from Miss Towson.

Q Now, who asked you to leave the hotel?

A Mr. Limecooly, and I told Gladys what he said, and she said she would just have to let me go.

Q That was Mr. Limecooly?

A Yes, Mr. Limecooly walked up to me on Saturday night, right after work, and he just swore at me and he just walked away and he walked over and told me I was through and I should tell Gladys. That's all, that I

was through, and he was going to tell Miss Townson, and so I came the next night and checked up with her, but she dismissed me, too.

MR. BLOODGOOD: That is all.

MR. HANSEN:

Q She wasn't present at the time he dismissed you? She was not in the building, was she?

A No, she wasn't.

Q And he did say that you should tell Miss Townson that you were through?

A That is right.

MR. HANSEN: That is all.

MR. BLOODGOOD: That is all.

THE EXAMINER:

Q Just a minute. Now, regarding this termination, he told you you were through and you should tell Miss Townson that he said you were through, is that right?

A Yes.

Q And then you told Miss Townson about it the next day?

A Yes.

Q What did she say?

A She said she -- that she had to let me go.

Q Did she say why?

A No, I can't recall.

Q Did you hear Miss Townson testify that she gave you no instructions about the manner in which you dressed?

A Yes, I did.

Q Did you have that in mind when you testified that she would tell you what to wear, such as some of your clothes or some of your uniforms?

A Yes, she did.

Q Did you have that in mind when you testified to that effect?

A Yes.

- Q There has been testimony this morning that most of the directions that were given to you were from the hotel, relayed by Miss Towson?
- A Now, what -- I don't know if they said anything, but all the instructions I had were all from Miss Towson.
- Q Well now, did she ever tell you that the hotel thought you had too much makeup on, or the manager thought you had too much makeup on?
- A No.
- Q Did she ever tell you that she thought you had too much makeup on?
- A Yes, and she has even, if my nail polish was scraped a bit she would send me down and get some polish or take it off; likewise, if I had a run in my hose during the course of the evening, I would have to run down to Walgreen's on the corner and buy another pair.
- Q And who told you you had to get another pair?
- A Miss Towson would say, "Well, you can run down to the drugstore and get another pair."
- Q "You can run down and get another pair." Did you understand that to mean that you had to go down and get another pair?
- A Yes, sure, because Miss Towson wouldn't let you walk around the hotel with a run in your hose.
- Q Now, you said that you filed, or filled out, an application for this job?
- A Yes.
- Q Did you hear Miss Towson say that that was more or less of an oral interview and that you coaxed her to let you come on the job at the time?
- A No, no I didn't. I just applied for the job. I didn't know anybody and I had been working at the time I applied for the job and I didn't do any coaxing because I didn't know whether, if -- it wasn't certain whether I was going to stay in Milwaukee at the time because I was on my way to Chicago, but I stopped in to see a sister of mine and

I didn't know whether she would call or not.

Q You claim that you filled out a written blank?

A I made a written application -- it's an application.

Q Did you ever have any contact with anybody in the management of Hickey Brothers, other than Miss Towson?

A No.

Q I think you stated that Miss Towson said that Hickey was coming around and that you had better get a new uniform?

A Yes.

Q Did you make that statement?

A Yes.

Q And who was Hickey?

A Hickey is the owner of the organization.

Q Did he ever come around while you were there?

A Yes.

Q Did he inspect your uniform?

A Well, he did. He would look at me, and if he didn't like it I imagine he would pass his comments on it.

Q Did he ever talk to you about your uniform?

A No, he never talked to me about my dress.

Q Did he ever talk to you about anything?

A No.

Q Did you file any claim for compensation for this injury to your knee?

A No, I didn't.

Q You lost no time because of the injury?

A No, I didn't, because I was afraid I would be just dismissed from the hotel if I didn't work.

Q Well, about this doctor -- who paid the doctor for any treatment?

A I imagine the hotel did, and he didn't do anything with it because

there wasn't much he could do with the bruise.

Q Didn't he bandage it or anything?

A No, he didn't.

Q Well, did he give you any treatment of any kind?

A Yes, I think he rubbed some alcohol on it and he said I should put on some pork or something when I got home, and I didn't do anything about it, and I just let the knee go; and a short time after that I got the hemorrhage on my knee and I had it bandaged -- that was on my own expense.

Q You made no payment to the doctor at that time?

A Not at that time.

Q There has been considerable testimony about the amount of control or authority that the hotel had, Miss Kelly; were you ever given orders by the management of the hotel?

A No, not that I can recall.

Q Well, now, Mr. Limescooly discharged you, or terminated your relationship there, didn't he?

A Yes, but the -- I spoke to Mr. Schroeder the following day about my dismissal from the hotel, and Mr. Schroeder said Limescooly had no right to fire me. I was fired by the hotel.

MR. BLOODGOOD: I object to that.

MR. HANUSH: I think it is perfectly relevant.

A That's what he said to me.

THE EXAMINER: It is hearsay, of course.

MR. BLOODGOOD:

Q The fact is that Mr. Limescooly discharged you. Isn't that right?

A Yes, he did.

THE EXAMINER: I guess that is all.

MR. HANUSH: I have one other witness here.

THE EXAMINER: That is all, Miss Kelly. Have we got all the

facts now that you know concerning your relationship with Hickey Brothers?

A I think so.

THE EXAMINER: All right.

(Witness excused.)

ROSALIE MANIACI,
called as a witness for the respondent, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN:

Q What is your name?

A Rosalie Maniaci.

THE EXAMINER:

Q Spell that last name.

A M-a-n-i-a-c-i.

MR. HAYDEN:

Q Were you ever employed by the Hickey Brothers?

A Yes, I was.

Q When were you employed there?

A It was during the teachers' convention last year when I started.

Q And during what month was that, October?

A I don't recall exactly when the teachers' convention was. Do you know?

Q Probably October, 1940. And were you employed there during the time that Miss Kelly was working?

A Yes, I was.

Q And where were you employed?

A At the cigar stand.

Q Who hired you?

A Miss Towson.

Q And how long did you work there?

A Three weeks.

Q And what were your duties?

A Well, I was the girl at the stand, selling cigarettes and all other merchandise that they handled.

Q At the stand, and what was your salary?

A A dollar a day training salary.

Q Did she call it a training salary?

A Well, that is what she called it, and she specified it would be for two weeks; but at the end of the two-week period, then she put on another week at a dollar a day, so I quit after the third week.

Q And did you go to any training school?

A No.

Q Did she give you any definite instructions?

A No.

Q And what were your hours there?

A Well, one day I would work a split shift of from six in the morning until noon, and I worked from six in the evening until twelve at night when the stand closed, and the next day I worked short hours. I think it was from two in the afternoon until eight, something like that. I don't remember the exact hours of the short day.

Q But you worked at least six or seven hours a day?

A Yes.

Q And on your long days, your long shifts, it exceeded eight hours, is that correct?

A Yes.

Q And how many days a week were you employed there?

A Six.

Q And what was your off day?

- A Monday. No, Saturday. Saturday was my off day.
- Q Did the off day vary with the other girls so that there was always someone at the stand?
- A Yes.
- Q Now, did you know of any relationship between Miss Kelly and Miss Townsen?
- A Well, I know that all the instructions that Miss Kelly got came from Miss Townsen while I was there. I heard no comment from the manager of the hotel whatsoever.
- Q And did you hear Miss Townsen give her instructions as to her clothes?
- A Yes, I did.
- Q And did you hear any comments about her makeup?
- A She also commented about makeup. I know she wanted me to change my hair entirely for Mr. Hickey, and I didn't know Mr. Hickey, so I overlooked it.
- Q Pardon me. You weren't employed under the name "Rosalie Maniaci"?
- A No. LeVallotte.
- Q You have since been married?
- A Yes.
- Q And you were employed under that name?
- A Yes.
- Q Did you ever hear Miss Townsen give Miss Kelly instructions as to where to go?
- A Yes, calls may come to the stand from one place to another and, if Miss Townsen wasn't there, the girl at the stand relayed the message to her.
- Q And do you know anything about the hours that she had to put in?
- A Well, she was always there at a quarter to seven when I worked nights.
- Q Did she ever come later than a quarter to seven?
- A Not that I remember.

Q And do you know how late she worked?

A Until I left the stand at twelve.

Q She was there at the time you left the stand?

A Yes.

Q Now, you heard Miss Towson say that the girls got anywhere between \$75 and \$90 a month, is that correct?

A Well, that was news to me when I heard it because I was hired for a dollar a day.

Q And do you know of any other instances where they hired girls for a dollar a day?

A Well, just from what I have heard. I really couldn't testify to that as to the price that they paid the other girls that I have seen working there in training.

Q They have this so-called training period?

A Yes.

Q And they have girls working there under those conditions, or terms?

A Yes.

Q How long is the so-called training period?

A A week or two weeks.

Q And during those two weeks they are supposed to familiarize themselves --

A (Interposing) With the arrangements of the merchandise and the prices.

Q How long would that take?

MR. BLOODGOOD: Just a minute. That is objected to. I don't think that this witness is qualified to testify as to how long it would take.

MR. FARUSE:

Q How long did it take you?

A Well, I learned where everything was in about a week.

Q Do you know whether Miss Kelly had any instructions as to the selling price of those cigarettes?

A Well, I know I was to sell them to her at the retail price, 18 cents a package when she ran short and came to the stand for some more cigarettes. That's what I had to sell them for, and they were marked down on the paper.

Q Do you know whether or not Miss Kelly had instructions from Miss Townson as to what selling price she should sell them for?

A I didn't know that.

Q You didn't hear it?

A No.

MR. HARBUR: That is all.

CROSS EXAMINATION BY MR. BLOODGOOD:

Q Just a minute. How long have you known Miss Kelly?

A Miss Kelly?

Q Yes.

A A little over a year.

Q A little over a year. Did you testify that you knew her in 1939?

A I did not.

Q She went to work in 1939?

A I said, when I went to work she was working there.

Q When was that?

A I said during the teachers' convention, last year.

Q Of 1940 -- pardon me. That was when you first met Miss Kelly?

A No, I knew her before that -- well, I don't remember the day that I met her.

THE EXAMINER:

Q Do you know whether or not you knew her before you started working at the hotel?

A Yes, I did.

THE EXAMINER: Go ahead, Mr. Bloodgood.

MR. BLOODGOOD:

Q And how long before you started to work at the hotel did you know her?

A Well, I don't remember exactly how long I knew her.

Q Where had you known her, just in Milwaukee?

A Yes, just in Milwaukee.

Q And did you ever room at the same place with Miss Kelly?

A No.

Q How did you happen to meet Miss Kelly?

A Through mutual friends.

MR. BLOODGOOD: That is all.

MR. HANSEN:

Q Just a minute. Did you ever go out with Miss Kelly prior to the time you started to work there?

A Yes.

Q Often?

A No.

THE EXAMINER: Well now, just a minute. I don't know what that has to do with it.

A I don't know either.

MR. HANSEN: I just wanted to see. He probably wants to show interest in the matter and, as far as she is concerned --

A I met her when I was teaching dancing at the studio.

MR. HANSEN: That is all.

THE EXAMINER: I just want to check and see if there is anything that we haven't covered that you might know --

Q Did you state that you heard Miss Towson give Miss Kelly instructions as to her dress?

A Yes.

Q Do you recall what was said?

A Well, it was usually about makeup, or something similar to that.

Q Do you mean that she should change?

A Her nail polish or her stockings.

Q You don't know whether or not Miss Kelly was asked to charge any particular price for the cigarettes?

A No.

Q You know that she paid the retail price at the stand?

A Yes, I know that.

Q You say you worked there three weeks?

A Yes.

Q And you quit when you found out that the training period had been extended another week, is that right?

A Yes.

THE EXAMINER: I guess that is all.

MR. HANSEN:

Q Did you get your full three-weeks' pay?

A No, I didn't. I had to sign a release of some sort; I don't recall what it was, before I got the check from Hickey Brothers for that amount that I did receive, that they didn't owe me anything further.

Q And how much was that?

A I think it was \$15.

MR. BLOODGOOD: Just a minute.

THE EXAMINER: Just a minute.

MR. BLOODGOOD: I don't think that has anything to do with this case.

THE EXAMINER: I don't either.

MR. HANSEN: We want to go into their business tactics.

THE EXAMINER: Their tactics?

MR. HANSEN: There is a violation here of the law and that, I think, should be in the record, and that is the reason for this testimony.

THE EXAMINER: All right, Mrs. Mamiach.

MR. BLOODGOOD:

Q Just one question. You say you are a dancing teacher.

A I was, yes.

Q Was Miss Kelly taking lessons from you?

A Not from me, no.

Q But from the Studio?

A Yes.

Q Do you know when she started taking lessons?

A No, I don't.

Q Was that before you knew her, or afterwards?

A I met her at the studio.

MR. BLOODGOOD: That is all.

(Witness excused)

(Recess at 11:10 A.M. Hearing resumed at 11:15 A.M.)

MISS CLAIKE KELLY,

recalled as a witness in her own
behalf, having been duly sworn,
testified as follows:

THE EXAMINER:

Q All right. I will remind you that you are under oath, Miss Kelly.

A Yes.

Q Now, with reference to the amount of income or earnings that you made, while you were associated with Mickey Brothers, do you have any record of the amount you earned?

A No. I never kept any records, because it was very changeable, and Miss Towson never asked me what I made, and she said, "Well, Claire, are you doing all right?" and I said "yes". You see I have a sister here that always helped me along, because on what I made I couldn't get along,—I says.

Q Well, do you have any idea of what you made?

A I would say I made from \$12 to \$13 -- or \$10 a week, Unless I had an exceptional week, a convention or something -- otherwise, that was all I got.

Q You averaged from \$12 to \$13 a week?

A That's right.

Q And occasionally you made more than that?

A Yes.

Q Is that right?

A Yes.

Q Did you ever have any weeks in which you made \$20 or \$25?

A No, but I wish I did. And another thing, I never could make sales by the cigar stand. I have a tray and I just walked around. All right, shall I continue now?

Q Yes.

A With regard to uniforms, I remember very distinctly that Miss Tewson had noticed a uniform in the Boston Store.

Q What was that?

A Miss Tewson had noticed a black and white jumper that she wanted me to wear. She had seen it at the Boston Store, and she did make me go down and get that. And she also made me wear a Sailor Uniform, which I never did like -- a Sailor Costume. That was the last one I wore.

Q Did you say she made you go down and get the jumper?

A Yes.

Q Well, just how did she make you go down there?

A Well, she told me that I should go down and get it, and she reminded me about it the next day.

Q Well, did you consider refusing that request?

A Well, I just -- I said I had just gotten the other uniform recently. Of course, she insisted, so I just went down and got it.

THE EXAMINER: Do you have any questions on this last testimony, Mr. Bloodgood?

MR. BLOODGOOD:

Q Did she make any threats to you if you didn't get it?

A No, she didn't make any threats; but I always listened to Miss Towns, when she would tell me what she wanted. I went and got it because I needed my job.

Q You always did everything --

A Yes, I always tried to ^{do} everything she asked me to.

MR. BLOODGOOD: That's all.

THE EXAMINER: That's all.

(Witness resumed)

THE EXAMINER: All right, did you want to make a little statement? First, we will mark this. We will call it Appellant's Exhibit 1.

(Appellant's Exhibit 1 marked for identification.)

MR. BLOODGOOD: This is an office copy of a lease, purporting to be between Schroeder Hotel Company, a Wisconsin Corporation, and Hickey Brothers, an Iowa Partnership. This copy is being produced at the request of the Examiner, and I would be glad to stipulate (and introduce it) that, as far as I know, it is the copy of the lease which has been entered into. This is not a signed lease, so it is up to Mr. Habsuk --

MR. HABUSH: I am perfectly satisfied.

MR. BLOODGOOD: -- to say whether he will accept it or not.

MR. HABUSH: -- to accept that, insofar as it purports to show what control or what restrictions were placed on her at the hotel by Hickey Brothers and the management of that cigar stand. We are not interested in the rental or anything else. All we are interested in is the control and management, and what the limitations are -- what the conditions are; and I imagine they have got that covered in there.

THE EXAMINER: Well then, you are willing to stipulate and agree that we accept that as a copy of the lease that was in existence, showing the relationship between Riskey Brothers and the Schroeder Hotel?

MR. HADUSH: That is right.

THE EXAMINER: -- and that this stipulation is made, in view of the fact that we don't have anybody here that can properly introduce a current lease.

MR. BLOODGOOD: That's right.

THE EXAMINER: I think that will be satisfactory, and thank you for getting it, Mr. Bloodgood. The appeal tribunal will make a decision on the basis of the testimony and the record, and a copy will be mailed to each one of the parties.

TERMINATION OF THE HEARING ADJOURNED AT 11:20 A.M.

KLP
10/11/41

I, Matthew L. Peterson, hereby certify that as an official reporter for the Industrial Commission of Wisconsin I took in shorthand the proceedings had before the Commission in the above matter on September 11, 1941, and that the attached transcript is a true and correct copy of the same and of the whole thereof.


Reporter

INDUSTRIAL COMMISSION OF WISCONSIN