

of the Investigating Commissioner. Such report is exploratory and part of the preliminary steps in the procedure provided by the Executive Law. Therefore, the claimant's application to reopen the decision of the Board based upon the report of the Investigating Commissioner is premature.

We hereby incorporate by reference our decision in Appeal Board, 118,040 (*Matter of Arnold*) which is made part of this decision with the same force and effect as if fully set forth herein, and from which decision no appeal was taken by the claimant therein. For the reasons set forth therein we adhere to our previous conclusion that the initial determination of the local office be sustained.

It must be emphasized that in the case on appeal, the claimant was not discharged because she reached a specific age. The employer offered to transfer her to several ground jobs and she was given the choice to accept anyone of them or terminate her employment. Claimant first made her choice to accept such transfer, but then withdrew her election and insisted on continuing only as a flight stewardess, even though she knew that the agreement under which she was hired and accepted her employment provided that she would not be permitted to fly after attaining thirty-two years of age.

It is significant that claimant has not invoked the grievance procedure afforded her by the collective bargaining agreement.

Inherent in the procedures followed by the employer pursuant to the collective bargaining agreement is the right and prerogative of management to assign workers to other jobs within their training, experience and competence. We hold that the employer herein afforded claimant the opportunity to continue in its employment at various jobs at the election of claimant and which would carry with them no loss in remuneration or seniority status.

We conclude that claimant voluntarily left her employment without good cause.

DECISION

Claimant's application to reopen and reconsider the decision of the Board filed March 3, 1966 (Appeal Board, 128,115) is granted and the said decision of the Board is rescinded.

The initial determination of the local office disqualifying claimant from receiving benefits effective September 1, 1965, on the ground that she voluntarily left her employment without good cause, is sustained.

The decision of the referee is affirmed.

LOUIS J. NAFTALISON,
Member.

ISIDORE SCHECHTER,
Member.

JOHN A. ROGALIN,
Member.

JAMES R. RHONE,
Member.

PHILLIP F. WEXNER,
Member.

STATEMENT OF AMERICAN TELEPHONE AND TELEGRAPH Co.

The American Telephone and Telegraph Company makes this statement on behalf of the Bell System.

First, the Bell System does not oppose the objective of this bill that there should not be discrimination on account of age practiced by employers, labor unions or employment agencies. Indeed the Bell System companies have complied with the laws of the many States dealing with discrimination in employment on account of age and, to the Company's knowledge, none of the System companies has ever been held in violation of any of those laws.

In its present form, H.R. 3651, even though not so intended, could adversely affect the pension and retirement plans of the Bell System companies and those of many other employers in the country.

Description of Bell System Pension Plans

The Bell System consists principally of the American Telephone and Telegraph Company, 21 regional telephone operating companies, Western Electric Company and Bell Telephone Laboratories. Each company has a separate pension plan and separate funds separately administered. These plans cover approximately 800,000 active employees and about 95,000 employees retired on service pensions.