



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
HARRY HUGHES
Governor

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Decision No.: 142-BH-85
Date: February 28, 1985
Appeal No.: 09863
S. S. No.:
L.O. No.: 2
Appellant: CLAIMANT

Claimant: Jimmie L. Pinkney

Employer: Host International
ATTN: Personnel Dept.

Issue: Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of §6(a) of the Law.

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON March 30, 1985

— APPEARANCES —

FOR THE CLAIMANT:
Jimmie Pinkney;
Odella Oliver,
Legal Assistant

FOR THE EMPLOYER:
Jim Stuller,
District Mgr.,
Gibbens Company

EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Employment and Training's documents in the appeal file.

FINDINGS OF FACT

The claimant was employed for approximately eight years for the employer. Her last day of work was August 2, 1984. The claimant was employed as a baker's helper and performed varied duties in relation to making, preparing and baking all types of cakes, pies and puddings. The claimant was first hired to work on the day shift, then was changed to the night shift for approximately one year, then changed back to the day shift.

In December of 1981 the claimant began to receive medical treatment for heart palpitations and for nervousness, headaches, chest pains, and dizziness. She sees her physician approximately once every four months and has been regularly prescribed medication for her condition. The claimant's problems are aggravated by stress.

The claimant's job brought about stress because it was a high volume operation in which a great number of duties must be done in a limited amount of time. The day shift was slightly more stressful than the night shift, but both were fairly stressful. The employer was understanding of the claimant's problems, but the stress problems still continued.

In July of 1984, the claimant's doctor suggested that she quit her job and find a less stressful job in the same field of work. The claimant worked approximately three or four more weeks, then quit her job. On the day preceding the claimant's last day of work, she had not been able to finish all of her duties. When she was reminded of this by her supervisor on her last day of work, the claimant decided that she could not take the stress of the job any longer and would take her doctor's advice and quit. Her last day of work was August 2, 1984.

CONCLUSIONS OF LAW

The Board concludes that the claimant did not have good cause connected with the conditions of employment for leaving her job. Although the claimant's job was stressful, it was not hazardous to the health of an average employee. There was nothing unusual about the job itself, and it was certainly within the normal range of jobs in this category (although it was among the more stressful jobs in this range).

The claimant, however, did have valid circumstances for leaving her employment, in that she suffered from a medical condition which was exacerbated by her stressful working conditions and she was advised by her doctor to quit this job. This was a personal reason of the claimant's for leaving the job, but, considering the circumstances, the Board finds that the claimant did have no reasonable alternative but to leave this employment. The claimant worked with her medical condition for a number of years and even for a number of weeks after her doctor specifically advised her to quit. The Board credits the claimant's testimony that she did not quit until it was absolutely impossible medically for her to continue.

Although the employer argues that the claimant should be disqualified under §4(c) of the law, the Board disagrees. The claimant is able to handle many of the types of jobs for which she is trained. Indeed, it appears that she is able to perform most of these types of jobs. Although the job which the claimant did last was not so unusually stressful that it would affect an average employee to the extent that it did this claimant, it was, nevertheless, much higher in stress than most jobs of this category. The claimant's inability to perform this job does not show that she is unable to work within the meaning of §4(c) of the law.

DECISION

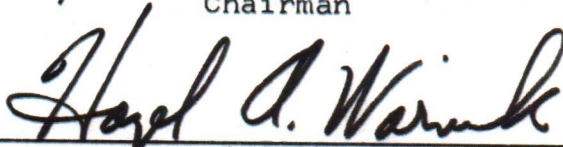
The claimant voluntarily left her employment, without good cause within the meaning of §6(a) of the Maryland Unemployment Insurance Law. The claimant is disqualified from the receipt of benefits from the week beginning July 29, 1984 and for the four weeks immediately following.

This denial of unemployment insurance benefits for a specified number of weeks will also result in ineligibility for Extended Benefits and Federal Supplemental Compensation, unless the claimant has been employed after the date of the disqualification.

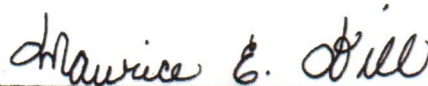
The decision of the Appeals Referee is modified.



Chairman



Associate Member



Associate Member

K:D:W
kbm

Date of Hearing: February 5, 1985

COPIES MAILED TO:

CLAIMANT

EMPLOYER

The Gibbens Company
ATTN: Jim Stuller
District Mgr.

Legal Aid Bureau, Inc.
ATTN: Odella Oliver
Legal Asst.

UNEMPLOYMENT INSURANCE - GLEN BURNIE



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Chief Hearing Examiner

- DECISION -

Claimant: Jimmie L. Pinkney
Date: Mailed: 10/4/84
Appeal No.: 09863
S. S. No.:
Employer: Host International
L.O. No.: 2
Appellant: Claimant

Issue:

Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law.

- NOTICE OF RIGHT TO PETITION FOR REVIEW -

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON Oct. 19, 1984

- APPEARANCES -

FOR THE CLAIMANT:
Claimant-Present

FOR THE EMPLOYER:
Robert Zantb,
Bakery Supervisor
Ronald Pickett,
Commissary Manager
Clif Cecchi,
Accounts Manager
for the Gibbens
Company, Inc.
James Stuller,
The Gibbens
Company, Inc.

FINDINGS OF FACT

The claimant was employed by Host International for about eight years until August 2, 1984. She performed the services of a

Baker's Helper and was earning \$6.15 per hour at the time of her termination of this employment.

The claimant resigned from her job because she felt that her supervisor was unduly critical of her work. The claimant had worked for this same supervisor for approximately five years prior to her resignation. There were occasions when the supervisor found it necessary to be critical of the claimant's work, but the evidence shows that the criticism was not excessive and that the claimant was not singled out for critical comment from the supervisor. There were occasions when the supervisor seemed annoyed because the claimant had not performed certain tasks because she was busy on other work. This occurred on the day before the claimant resigned when she performed a particular assignment and the supervisor demanded to know why she had not done another assignment. This offended the claimant because she was busy doing something else at the time. However, this was not excessive and the claimant was not subjected to any humiliating treatment.

CONCLUSIONS OF LAW

Section 6(a) of the Maryland Unemployment Insurance Law, requires the denial of benefits when an individual leaves work voluntarily, without good cause or valid circumstances. The terms "good cause" and "valid circumstances" are defined as compelling reasons for leaving work which leaves the worker no reasonable alternative but to leave. The burden of proof to establish good cause or valid circumstances is upon the claimant.


The claimant resigned because she was annoyed by criticism by her supervisor. The criticism was not excessive or unduly humiliating. Under the circumstances, it is concluded that the claimant has failed to show good cause or valid circumstances for leaving her job, and the determination of the Claims Examiner must be affirmed.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause or valid circumstances within the meaning of Section 6(a) of the Maryland Unemployment

Insurance law. She is disqualified from receiving benefits from the week beginning July 29, 1984, and until she becomes re-employed and earns at least ten times her weekly benefit amount (\$1,620) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner dated August 27, 1984, is affirmed.


Bernard Streett
Appeals Referee

Date of hearing: 9/20/84

rc

(6827)-Scroggs

Copies mailed on 10/4/84 to:

Claimant

Employer

Unemployment Insurance - Glen Burnie

The Gibbens Company, Inc.