



**DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION**

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032
- DECISION -

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN
Secretary

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

MAURICE E. DILL
HAZEL A. WARNICK
Associate Members

SEVERN E. LANIER
Appeals Counsel

DECISION NO.: 1108-BR-82

DATE: August 17, 1982

APPEAL NO.: 06116

S. S. NO.:

CLAIMANT: Renee F. Waters

EMPLOYER: State Farm Insurance Co.

L. O. NO.: 4

APPELLANT: EMPLOYER

ISSUE Whether the Claimant failed, without good cause, to file a timely and valid appeal within the meaning of Section 7(c)(ii) of the Law; and whether the Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 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 SUPERIOR 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

September 16, 1982

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals adopts the findings of fact and conclusions of law of the Appeals Referee.

The Board notes the Employer's contention that the determination disqualifying the Claimant was issued in May of 1981 and was final.

With the inception of the Extended Benefits Program in Maryland in February of 1982, it became apparent that many claimants, like the Claimant in this case, were disqualified for Extended Benefits based upon a previous weekly penalty imposed upon them under Sections 6(a), (c) or (d) of the Law. It also became apparent that no notice of any disqualification for Extended Benefits had ever been given to any of these claimants at the time that these weekly penalties had been imposed.

In the case of Ottenheimer Publishers, Inc. v. Employment Security Administration, 275 Md. 514 (1975), the Court of Appeals ruled that proper notice under the Unemployment Insurance statute required that an employer be given actual notice of the ramifications of any penalty imposed. In the Miller and Slechta cases, Board Decision No. 465-BR-82 and 466-BR-82, the Board of Appeals held that this rationale applied also to claimants, and that claimants who had been given notice of a weekly penalty, but who had not been given notice of the ramifications that that penalty brought about with regard to Extended Benefits, were not given proper notice under the Unemployment Insurance Law of the decision that had been made.

Therefore, the Board ruled that, in cases where this had occurred, the claimants should be given another opportunity to litigate the issue which brought about the weekly penalty in the first place. That is what occurred in this case. The Employer also was given equal rights to relitigate the weekly penalty and to attempt to have the Employment Security Administration impose a more severe penalty. Since, however, the Board of Appeals agrees with the decision of the Appeals Referee that no penalty is appropriate for the separation from employment that took place in May of 1981, no penalty will be imposed in this case.

DECISION

The Claimant had good cause for filing a late appeal within the meaning of Section 7(c)(ii) of the Maryland Unemployment Insurance Law.

The unemployment of the Claimant was due to a non-disqualifying reason within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is not disqualified for unemployment insurance benefits based on her separation from employment which occurred on May 29, 1981.

The decision of the Appeals Referee is affirmed.

Thomas W. Keech
Chairman

Abel A. Warwick
Associate Member

K:W
zvs

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - HAGERSTOWN



DEPARTMENT OF HUMAN RESOURCES
 EMPLOYMENT SECURITY ADMINISTRATION
 1100 NORTH EUTAW STREET
 BALTIMORE, MARYLAND 21201
 383 - 5040

BOARD OF APPEALS

STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

THOMAS W. KEACH
 Chairman

HAZEL A. WARNICK
 MAURICE E. DILL
 Associate Members

SEVERN E. LANIER
 Appeals Counsel

MARK R. WOLF
 Administrative Hearings Examiner

- DECISION -

CLAIMANT: Renee F. Waters
 EMPLOYER: State Farm Insurance Co.
 DATE: June 21, 1982
 APPEAL NO.: 06116
 S.S. NO.:
 L.O. NO.: 4
 APPELLANT: Claimant
 ISSUE: Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law.
 Whether the claimant had good cause for late appeal within the meaning of Section 7(c)(ii) of the Law.

NOTICE OF RIGHT OF FURTHER APPEAL

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON July 6, 1982

- APPEARANCES -

FOR THE CLAIMANT:

Renee F. Waters - Claimant

FOR THE EMPLOYER:

Vanessa Lott - Personnel Specialist

Other: Alexis Allenbach - Claims Specialist III - Employment Security Administration

FINDINGS OF FACT

The claimant was employed by State Farm Insurance Company from May 2, 1977 until her last day of work on May 29, 1981. She was earning \$5.80 per hour at the time that she voluntarily submitted her resignation. The claimant resigned her employment by stating that she wanted to be at home. The claimant was a very good worker.

Although the claimant did not inform the employer, her real reason for leaving the employment was that she was suffering from an emotional illness which was diagnosed by a treating psychiatrist as depression. The psychiatrist had advised the claimant that it would be in her best interest to quit her job. The claimant was depressed about her job because she had been repeatedly passed over for promotions. The claimant was constantly informed by her supervisors that she was an excellent worker and was used to train new workers and yet saw these new workers promoted over her. This caused her to have emotional problems which made it impossible for her to continue on with her employment with State Farm Insurance Company.

The claimant's physician has stated that she was able to work at other jobs as of May 31, 1981.

As a result of leaving her employment, the Claims Examiner of the Local Office found that the claimant voluntarily left her employment, without good cause, connected with her work and disqualified her from receiving unemployment insurance benefits for the week beginning May 24, 1981 and five additional weeks, ending June 27, 1981. The claimant did not appeal this decision because she felt that since she had voluntarily quit, she would necessarily be penalized.

The claimant was not told at the time that she was disqualified that this disqualification would have an effect upon her right to receive extended benefits under the Maryland Unemployment Insurance Law. She was not told this because the Extended Benefits Law had not triggered into action at the time of her disqualification.

CONCLUSIONS OF LAW

The Board of Appeals has held that claimants who do not appeal disqualifications under circumstances similar to the claimant's are entitled to reopen their cases because they were not aware that the disqualification for a short term of weeks would have an adverse effect upon their future right to receive extended benefits. The claimant, therefore, will be allowed to reopen her case and her late appeal will be considered.

Upon consideration, it must be found that the claimant did not voluntarily quit her employment. She was advised by her physician that to continue in the employment would be detrimental to her emotional health. Under these circumstances, the claimant had good cause for terminating the employment relationship and had no real option but to do so.

The claimant's good cause was clearly connected with her work and it was the treatment that she received on the job which was causing her emotional illness.

DECISION

The claimant had good cause for filing a late appeal within the meaning of Section 7(c)(ii) of the Maryland Unemployment Insurance Law.

The unemployment of the claimant was due to a non-disqualifying reason within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is eligible for unemployment insurance benefits for the week beginning May 24, 1981, and thereafter, if otherwise eligible under the Law.

The determination of the Claims Examiner is reversed.


Martin A. Ferris
Appeals Referee

Date of hearing: 6/1/82
amp/9162
(?)
2514
Copies mailed to:

Claimant
Employer
Unemployment insurance - Hagerstown