

 **Maryland**  
Department of Economic &  
Employment Development

William Donald Schaefer  
Governor  
Mark L. Wasserman  
Secretary

Board of Appeals  
1100 North Eutaw Street  
Baltimore, Maryland 21201

Telephone: (410) 333-5032

Thomas W. Keech, Chairman  
Hazel A. Warnick, Associate Member  
Donna P. Watts, Associate Member

- DECISION -

Decision No.: 1018-BR-93  
Date: June 4, 1993  
Claimant: Doris E. Bass  
Appeal No.: 9303384  
S. S. No.:  
Employer: Foreign Motors Subaru, Inc. L. O. No.: 9  
c/o ADP/UCM Dept.  
Appealant: CLAIMANT

Issue:

Whether the claimant left work voluntarily, without good cause, within the meaning of §8-1001 of the Labor and Employment Article.

- NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how to appeal can be found in many public libraries, in the *Annotated Code of Maryland*, *Maryland Rules*, Volume 2, B rules.

The period for filing an appeal expires

July 4, 1993

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner.

The Board adopts the findings of fact of the Hearing Examiner<sup>1</sup>. Based on these facts, however, the Board of Appeals reaches different conclusions of law.

The claimant quit because her employer, a car dealer, was requiring her to file a claim against her own insurance company for the theft of the employer's car from the employer's premises. The claimant had been granted the temporary use of this car while the employer, which had damaged the claimant's personal car, was repairing the claimant's personal car. The claimant parked the car on the employer's premises and left the key out on the desk so that the car could also be used occasionally for demonstration purposes. (There is no evidence that the theft of the car had anything to do with this key being on the desk.) The car was stolen from the employer's premises during the work day.

The testimony was contradictory on whether filing a claim against the claimant's insurance company was the proper thing to do. But the Board disagrees with the Hearing Examiner's conclusion that the claimant should have just filed a claim against her insurance company and let the insurance companies battle it out.<sup>2</sup> If the claimant believed that the claim was not proper, she should not have filed it. On its face, it certainly appears ears improper for the claimant's personal insurance company to be responsible for the loss of the employer's car from the employer's premises. And the claimant acted reasonably in refusing to risk her own insurance coverage and rating by filing a claim based on a theft of the employer's car from the employer's premises in a situation where the car was in the control and possession of the employer.<sup>3</sup>

The claimant's quitting of her job, considering the whole history of this situation, was for a good cause, connected with the conditions of employment.

#### DECISION

The claimant left work voluntarily, but for good cause, within

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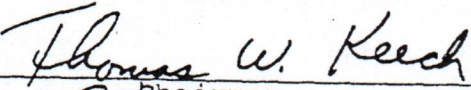
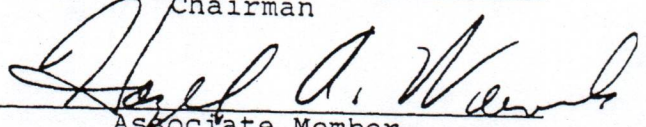
<sup>1</sup>The Board also finds as a fact that the car in question was used by the claimant while her personal car was being fixed, but that it was also used on occasion during the work day for demonstration purposes.

<sup>2</sup>There was nothing to stop the employer from making a claim against the claimant's insurance company itself, if the employer believed it had a good claim.

<sup>3</sup>The Board also notes that the only reason the claimant had any contact at all with this car was that the employer had damaged the claimant's personal car.

the meaning of 58-1001 of the Labor and Employment Article.  
No disqualification is imposed based on her separation from  
employment with Foreign Motors Subaru, Inc.

The decision of the Hearing Examiner is reversed.

  
Chairman  
  
Associate Member

K:HW

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - TOWSON

C. David Heisler, Esq.  
Heisler, Williams & Lazzaro



# Maryland

## Department of Economic & Employment Development

*William Donald Schaefer, Governor*  
*Mark L. Wasserman, Secretary*

*Gary W. Wiedel, Administrator*  
*Louis Wm. Steinwedel, Chief Hearing Examiner*

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*1100 North Eutaw Street*  
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**— DECISION —**

Date:	Mailed: 3/18/93
Claimant: Doris E. Bass	Appeal No.: 9303384
	S. S. NO.:
Employer: Foreign Motors Subaru, Inc. c/o ADP UCM Dept.	L. O. No.: 9
	Appellant: Claimant

Issue: Whether the claimant was discharged for misconduct connected with the work, within the meaning of MD Code, Title 8, Section 1003.

**— 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

4/2/93

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES ON  
 NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK

**— APPEARANCES —**

FOR THE CLAIMANT  
 Claimant-Present

FOR THE EMPLOYER:  
 Gabrielle Allen,  
 ADP  
 Scott Donahue,  
 Owner

**FINDINGS OF FACT**

The claimant was employed at Foreign Motors Subaru, Inc. from February 7, 1991, until her discharge on January 14, 1993. She was earning \$10.87, per hour as a Data Entry Person.

The claimant's employment ended when she quit her job because she was angry with the employer because of a disagreement concerning the submission of a claim to an insurance company for theft of a motor vehicle. The claimant's motor vehicle which she had purchased from the employer was damaged by the employer while the employer had it for repair. The employer gave the claimant another car to use while her car was being repaired. It was this latter car which was stolen while the claimant was at work and the car was parked at the employer's premises. The employer wanted the claimant to put in a claim to her own personal insurance company because the car was given to her to use while her car was being repaired. The claimant did not wish to do that because demonstrator cars used by other employees had been stolen and the claims had been made against the employer's insurance company.

The claimant became quite upset about this and went into the office of the owner of the company and conducted a loud and emotional argument. After that the claimant went out to her desk, sat down, cried a little and then got up announcing to other employees that she was quitting. The claimant never returned to work after these events.

#### CONCLUSIONS OF LAW

The claimant voluntarily quit her employment, without a good cause connected with her work, within the meaning of Title 8, Section 1001, Maryland Code. The claimant was not being asked by the employer to do anything unreasonable or dishonest. The employer wanted to try to have the claim handled through the claimant's insurance company. The claimant only had to report the matter to her insurance company and her insurance company could have denied the claim or worked with the employer's insurance company and handled it in some fashion. Instead, the claimant became visibly upset and quit her job in an emotional state.

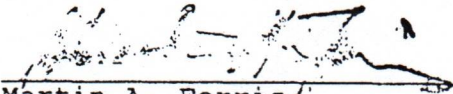
There were, however, in this case valid and serious circumstances present. The claimant's history of the purchase of her car, its damage by the employer and the theft of the replacement car along with her misunderstanding of the whole insurance situation contributed to her emotional state which caused her to leave her job and not return. Therefore, a disqualification of ten weeks will be imposed instead of an indefinite one under Title 1001.

#### DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of the

Maryland Code, Labor and Employment Article, Title 8, Section 1001. Benefits are denied for the week beginning January 10, 1993 and for nine weeks immediately thereafter.

The determination of the Claims Examiner is reversed.



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Martin A. Ferris  
Hearing Examiner

Date of hearing: 3/9/93  
rc/Specialist ID: 09657  
SEQ 01  
Copies mailed on 3/18/93 to:

Claimant  
Employer  
Unemployment Insurance - Towson - MABS