

 **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

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

— DECISION —

	Decision No.:	1114-BR-92
	Date:	July 13, 1992
Claimant: Peggy Dean	Appeal No.:	
	S. S. No.:	9208217
Employer: Eddie's Cleaners, Inc.	L. O. No.:	5
	Appellant:	CLAIMANT
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 8-1001 of the Labor and Employment Article.	

— 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, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES

August 12, 1992

— 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 Hearing Examiner disqualified the claimant on the ground that the claimant left work due to personal health reasons. The Hearing Examiner concluded that the claimant's reason for leaving did not amount to good cause but did amount to "valid circumstances" under the law.

Although this is a close case, and though there is evidence to support the Hearing Examiner's decision, the Board concludes that the facts in this case are closer to those in the Arnas v. Martin Gillett Company case (1090-BR-83). In the Arnas case, the Board ruled that the claimant's leaving of an unsuitable job after one day of employment, which the claimant had taken only because of a misunderstanding of the job duties, constitutes a voluntary quit with good cause. In the present case, the claimant did work almost two weeks. She took the job, however, only because she misunderstood that her pre-existing medical condition made it impossible for her to perform the duties of the job. As soon as the claimant realized that the job was unsuitable, she quit. Since the claimant took the job in the first place only because of a misapprehension of the ramifications of the job duties, and since the job was in fact medically unsuitable from the beginning, good cause will be found.

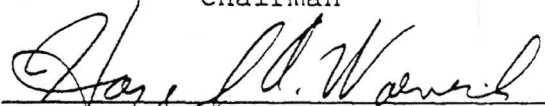
DECISION

The claimant voluntarily quit, but for good cause, within the meaning of Section 8-1001 of the Labor and Employment Article. No disqualification is imposed based upon the claimant's separation from employment with Eddie's Cleaners, Inc.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:HW

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - FREDERICK

 **Maryland**
Department of Economic &
Employment Development

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1100 North Eutaw Street
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Telephone: (410) 333-5040

— DECISION —

Mailed 5/13/92

Claimant: Peggy Dean

Date:

Appeal No.: 9208217

S.S. No.:

Employer: Eddie's Cleaners, Inc.

L.O. No.: 05

Appellant: Claimant

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of MD Code, Labor and. Employment Article, Title 8, Section 1001.

— 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.

May 28, 1992

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:

Present

FOR THE EMPLOYER:

NOT REPRESENTED

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits at Frederick, effective April 14, 1991.

In April, 1991, the claimant was laid off for lack of work from her principle occupation as a Secretary, a sedentary position.

She was paid out total unemployment insurance benefits through the end of October, 1991.

On October 28, 1991, the claimant accepted part-time employment with Eddie's Cleaners, Inc. at a pay rate of \$5.00 per hour. She worked approximately four days per week.

The claimant had been under the care of a doctor. When the claimant informed the doctor that she had accepted part-time employment, which required long hours of standing, he immediately advised her to leave that job, as a serious health risk.

Medical information has been submitted to the local office showing that the doctor advised the claimant to leave her job, because of the long periods of standing required, and that she may perform sedentary work, such as secretarial work.

Subsequently, the claimant filed for emergency unemployment insurance compensation. She has since secured gainful employment in mid March, 1992 on a full-time basis.

CONCLUSIONS OF LAW

The claimant has been able and available for work, without restrictions in her customary classification as a secretary. The medical documentation and her history of illness or partial disability has not precluded her from engaging in gainful employment in her principle classification, as a secretary, requiring only sedentary work. No disqualification should be entered with respect to her current and past illnesses.


However, the claimant took the gainful employment and then was advised by her doctor to immediately give up that employment, as the same might be hazardous or dangerous to her health. While the claimant has presented a valid circumstance, with respect to voluntarily leaving otherwise gainful employment, yet the cause of her unemployment was voluntary, and it was not for a cause directly attributable, to, or arising from work connected with the conditions of her employment or actions of the employer. Therefore, the minimum disqualification, as required by Statute is imposed.

DECISION

The claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 1001 of the Maryland Unemployment Insurance Law. Benefits are denied for the weeks beginning, November 3, 1991 and the four weeks immediately following.

The claimant has been able and available for work, within her customary classification, as required by Section 903 of the Maryland Unemployment Insurance Law.

The claimant has already been disqualified from receiving unemployment insurance benefits pursuant to the Emergency Unemployment Insurance Compensation Act, Section 1104(e), as a result of being disqualified for the receipt of regular unemployment insurance benefits for a specific number of weeks.


Robin L. Brodinsky
HEARING EXAMINER *JMC*

DATE OF HEARING: May 6, 1992
SPECIALIST ID: 05397
pmc/CASSETTE IN FILE

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Claimant
Employer
Unemployment Insurance - Frederick (MABS)