

 **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 —

Claimant:	Kim M. Smith	Decision No.:	135-BR-93
		Date:	January 28, 1993
		Appeal No.:	9223461
		S. S. No.:	
Employer:	Lourn M. Boyce, Sr.	L. O. No.:	003
		Appellant:	CLAIMANT
Issue:	Whether the claimant's unemployment was due to leaving 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 ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAYBE 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

February 27, 1993

— 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 of the Hearing Examiner. However, based on those facts the Board concludes that the claimant's

reason for quitting her job, while not good cause, does constitute a valid circumstance, within the meaning of §8-1001 of the Labor and Employment Article, warranting less than the maximum penalty.

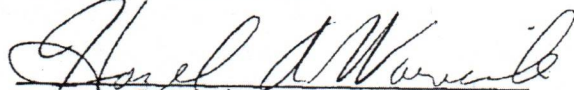
The claimant's schedule was much more varied and broken up than she was lead to believe when she was hired. Consequently the time she had to be available for work extended over the entire day and late into evening. This made childcare almost impossible to arrange. The claimant made a good faith effort to work this out, but was unable to do so. The claimant's babysitter testified to this on the claimants behalf. The employer was not present to refute any of the claimant's evidence.

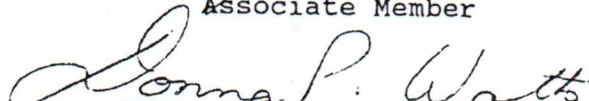
Under the circumstances the Board finds that the claimant voluntarily quit for a substantial cause, connected with her work, which is one of the definitions of valid circumstances under §8-1001 of the Labor and Employment Article. Therefore, the decision of the Hearing Examiner will be modified.

DECISION

The claimant left work voluntarily, without good cause, but for valid circumstances, within the meaning of §8-1001 of the Labor and Employment Article. She is disqualified from receiving benefits from the week beginning August 30, 1992 and the nine weeks immediately following.

The decision of the Hearing Examiner is modified.


Associate Member


Associate Member

H:D

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COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - CUMBERLAND

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark W. Wasserman, Secretary

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

Room 511
1100 North Eutaw Street
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Telephone: (410) 333-5040

— DECISION —

Date:	Mailed:	12/11/92
Claimant: Kim M. Smith	Appeal No.:	9223461
	S. S. No.:	
Employer: Lourn M. Boyce, Sr.	L. O. No.:	3
	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 TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW 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.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON December 28, 1992

NOTE: 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:

FOR THE EMPLOYER:

Claimant - Present
Accompanied by:
Carol Hamilton/Witness

Not Represented

FINDINGS OF FACT

The claimant worked for the employer from September 1, 1992 to September 2, 1992. She was employed as a cleaner and earned \$4.25 per hour part time.

The claimant voluntarily quit her employment on or about September 2, 1992, because she felt that the schedule was too varied. The credible evidence indicates that when the claimant was hired on September 1, 1992, she was told that the schedule would be varied. The claimant did not realize how varied the schedule would be. The claimant would often work two hours early in the day, then be off several hours, work several more hours, be off and work several hours again. The claimant did not realize that this was the nature of the position. In addition, the claimant had difficulty providing daycare for her child or children. The claimant was not sure what hours on each day she would work.

The claimant did not know whether or not the employer would give the claimant a schedule. The claimant asked the employer for a schedule and the employer said that she would be given a schedule. The claimant was not given a set schedule by the end of her second day of employment.

The employer was not present to present evidence at this hearing. The claimant worked two days for the employer.

CONCLUSIONS OF LAW

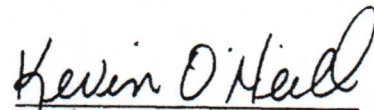
The Maryland Code, Labor and Employment Article, Title 8, Section 1001 provides that an individual shall be disqualified for benefits where his unemployment is due to leaving work voluntarily, without good cause arising from or connected with the conditions of employment or actions of the employer or without serious, valid circumstances. The preponderance of the credible evidence in the record will support a conclusion that the claimant voluntarily separated from employment, without good cause or valid circumstances, within the meaning of Title 8, Section- 1001.

In the instant case, the claimant voluntarily quit her employment because of the varied hours. The claimant was told that the hours would be varied and indeed they were. The claimant decided that she could not work and could not get adequate daycare for the hours that she needed to work. The claimant voluntarily quit her employment when she could not provide adequate daycare for her children on two consecutive days. The claimant had the necessary intent to separate from the employment because of its varied hours.

DECISION

It is held that 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 August 30, 1992, until the claimant becomes re-employed and earns at least ten times her weekly benefit amount (\$1,240) in covered employment and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.


Kevin O'Neill
Hearing Examiner

Date of Hearing: December 7, 1992
lr/Specialist ID: 03250
Cassette No: Hearing Cassette in File
Copies mailed on December 11, 1992 to:

Claimant
Employer
Unemployment Insurance - Cumberland (MABS)