



# 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*

**- DECISION -**

Claimant:  
STEPHEN A. SMITH

Decision No.: 1747-BR-93

Date: October 18, 1993

Appeal No.: 9315468

Employer:  
CIRCUIT CITY STORES INC

S.S. No.:

L.O. No.: 40

Appellant: Claimant

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

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**- 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 the appeal can be found in many public libraries, in the Maryland Rules of Procedure, Title 7, Chapter 200.

The period for filing an appeal expires: November 17, 1993

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**REVIEW ON THE RECORD**

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

The claimant's un rebutted testimony is that he informed the employer when he was hired, that he did not know if he would be able to perform the work, because he was not familiar with the type of forklifts that they used. Both he and the employer decided that he would give it a try.

The claimant received no training from the employer. After close to three weeks, the claimant concluded that he was unable to use that type of forklift and therefore quit his job.

Although he did state that the employer offered him other work, it was not the type of work with which he was experienced. Further, there was no evidence presented at the hearing that the work offered was at the same rate of pay.


The Board concludes that the claimant voluntarily quit his job for good cause, connected with the conditions of his employment. The employer knew that the claimant might not be able to use their equipment when they hired him. The claimant made a good faith, reasonable effort to learn the job, but was unable to do so. Further, the alternative work offered to him was not in the same line of work.

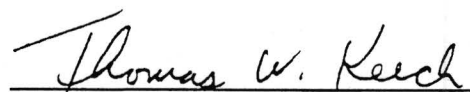
For these reasons, the decision of the Hearing Examiner is reversed.

#### DECISION

The claimant left work voluntarily, 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 Circuit City Stores, Inc.

The decision of the Hearing Examiner is reversed.

  
Hazel A. Warnick, Associate Member

  
Thomas W. Keech, Chairman

kmb

Copies mailed on to:

STEPHEN A. SMITH  
CIRCUIT CITY STORES INC  
LOCAL OFFICE #40  
CIRCUIT CITY STORES INC

## UNEMPLOYMENT INSURANCE APPEALS DECISION

STEPHEN A. SMITH

Before the:

SSN #:

**Claimant**

vs.

CIRCUIT CITY STORES INC  
% PAYROLL DEPT D JOHNSON

**Employer/Agency**

**Maryland Department of Economic and  
Employment Development  
Appeals Division**  
1100 North Eutaw Street  
Room 511  
Baltimore, MD 21201  
(401) 333-5040

Appeal Number: 9315468  
Appellant: Claimant  
Local Office: 40 / Eastpoint

August 25, 1993

**For the Claimant:** PRESENT

**For the Employer:**

**For the Agency:**

### ISSUE(S)

Whether the claimant's separation from this employment was for a disqualifying reason within the meaning of the MD. Code Annotated, Labor and Employment Article, Title 8, Sections 1001 (Voluntary Quit for good cause), 1002 -1002.1 (Gross/Aggravated Misconduct connected with the work), or 1003 (Misconduct connected with the work).

### FINDINGS OF FACT

The claimant went to work for the Circuit City Stores, Inc., on June 10, 1993 and his last day of work for them was June 30, 1993. At the time of his leaving this work, the claimant was a forklift operator and was earning \$7.00 per hour.

When the claimant was hired on June 10, 1993, he was hired as a forklift operator. However, the forklift equipment used by his employer was not the type of equipment that the claimant was used to operating. He told his employer this and they said go ahead and take the job as they needed forklift drivers and at least give it a try. The claimant could not operate the type of equipment that this employer needed for him to operate and therefore, he went to his employer and said that he would have to leave as he was unable to operate the equipment. This was a voluntary action on his part and when he said he would have to leave, the employer did offer him another job which the claimant was

able to fully perform, but since it was not driving a forklift, he decided that he did not want that job and instead he decided to resign. As stated, the claimant's resignation was completely voluntary on his behalf after having been offered another position at the same rate of pay and with the same company.

### **CONCLUSIONS OF LAW**

Section 8-1001 of the Maryland Unemployment Insurance Law states that an individual is disqualified from receiving benefits if the unemployment results from voluntarily leaving work without good cause. Good cause may be established if the cause is directly attributable to the conditions of employment or the actions of the employing unit. Neither of these two requirements is involved as simply the claimant decided that he could not operate the equipment and decided on his own to resign. He was offered another job at the same rate of pay and in approximately the same work location, however, he decided that all he wished to do was work on the forklift equipment that he knew how to operate. The claimant's leaving the work with this employer was voluntary on his behalf and was without good cause.

### **EVALUATION OF EVIDENCE**

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. The preponderance of the credible evidence in the record will support a conclusion that the claimant voluntarily separated from employment, without good cause, within the meaning of Title 8, Section 1001.

### **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 Unemployment Insurance Law, Title 8, Section 1001. Benefits are denied for the week beginning June 27, 1993 and until the claimant becomes re-employed, earns at least fifteen times his weekly benefit amount in covered wages, and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is modified.

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T. J. Lee, ESQ.  
Hearing Examiner

**Notice of Right of Further Appeal**

Any party may request a further appeal **either in person or by mail** which may be filed in any local office of the Department of Economic and Employment Development, or with the Board of Appeals, Room 515, 1100 North Eutaw Street, Baltimore, MD 21201. Your appeal must be filed by **September 9, 1993.**

Note: Appeals filed by mail are considered timely on the date of the U.S. Postal Service postmark.

Date of hearing: August 19, 1993

dw/Specialist ID: 40320

Seq. No.: 001

Copies mailed on August 25, 1993 to:

STEPHEN A. SMITH  
CIRCUIT CITY STORES INC  
LOCAL OFFICE #40