

DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
HARRY HUGHES
Governor

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Decision No.: 18-SE-87

Date: Jan. 12, 1987

Claimant: Mary K. Hill

Appeal No.: 8606789

S. S. No.:

Employer: Eastern Shore Markets, Inc.

L.O. No.: 26

Appellant: EMPLOYER

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.

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

February 11, 1987

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

Mary Hill, Claimant;

FOR THE EMPLOYER:

David Douglas,
Grocery Supv.;
Hall Reed,
Retail Oper.
Director

EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearing before the Special Examiner. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Employment and Training's documents in the appeal file.

FINDINGS OF FACT

The claimant had been employed at the Eastern Shore Market Meatland from March, 1975 to May 17, 1986. During the last several years of her employment, she had been employed as a head cashier, earning at the time of her separation \$7.16 per hour. The claimant worked in Crisfield, in a small store for the company, but as a result she had additional responsibilities other than those of the head cashier. She would frequently open and close the store and fill in for the assistant manager and manager if they were on vacation. The claimant also assisted with the loading and unloading of trucks and performed other managerial duties.

Over the years, the claimant had seen several new employees, hired as stock clerks, promoted up into management. She had repeatedly requested the opportunity for promotion and suggested to the company that she thought she was qualified for assistant manager or manager. She had trained some of the individuals that were subsequently promoted to assistant manager and manager but was never given the opportunity for promotion.

The company does not promote head cashiers or women to positions as assistant manager or manager. The company only promotes grocery managers to assistant manager or management positions and has not offered any women, including the claimant, an opportunity to become a grocery manager.

When hiring new employees, the company gives the employees a choice of positions that they would like to work in, explaining the duties in the grocery department as loading and unloading trucks, stocking shelves, etc., and in the cashier positions as checking food out and ordering for the fronts of the store. They do not explain to the individuals that they are hiring that additional promotions are possible from the grocery department, but that no additional promotions are possible from the cashier department.

When the claimant gave the employer notice that she was quitting, she was not offered a management position, but

simply asked if she would be willing to transfer to another store to work in the grocery department. She was not offered the opportunity to transfer but merely asked if she was interested. The claimant did not immediately respond, and no other offers were made to her. The company did attempt to get the claimant to return to work for them as a head cashier, but the claimant declined because her previous requests for promotion had been answered with "we'll get back to you", "women are too emotional" and "have you ever seen a pregnant assistant manager."

After having demonstrated to the company that she could perform the duties of assistant manager and manager in the absence of her assistant manager and manager, and after having trained other individuals who advanced on to management positions, the claimant quit, recognizing that the company has not promoted any women to management or assistant management positions.

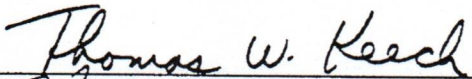
CONCLUSIONS OF LAW

Based upon the employer's record of not having promoted any women to management or assistant management positions, or even promoting them to the grocery manager position from which they could be promoted to assistant manager or manager, and based upon the fact that the claimant's evaluations had always been very satisfactory and that she had, in fact, performed the duties of assistant manager and manager in the past, it must be found that the claimant was discriminated against because she is a female, and she therefore had good cause attributable to the employer for voluntarily quitting her job, and she should be granted benefits without penalty.

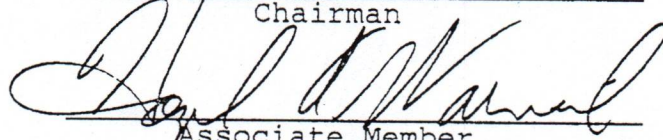
DECISION

The claimant had good cause attributable to the employer for voluntarily terminating her employment, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. Benefits are allowed without penalty.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:W
kbn

Date of Special Examiner hearing: December 4, 1986

COPIES NAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - CRISFIELD



STATE OF MARYLAND
HARRY HUGHES
Governor

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BALTIMORE, MARYLAND 21201

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Chief Hearing Examiner

— DECISION —

Date Mailed: August 21, 1986

Claimant: Mary K Hill

Appeal No.: 8606789

S. S. No.:

Employer: Eastern Shore Market

L.O.No.: 26

Appellant: Claimant

Issue: Whether the Claimant voluntarily quit her employment, without good cause, within the meaning of Section 6(a) 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON September 5, 1986.

— APPEARANCES —

FOR THE CLAIMANT:

Mary K. Hill - Claimant

FOR THE EMPLOYER:

David Douglas - Grocery Supervisor

FINDING OF FACT

The Claimant had been employed at the Eastern Shore Market (Meat land) from March, 1975 to May 17, 1986. Claimant was employed as a head cashier. Claimant earned \$7.16 an hour. Claimant worked in Crisfield, Maryland. As a result of -- the Claimant chose to resign her employment at the Eastern Shore Market due to a dissatisfaction that she was not being promoted. In June of 1983, the Claimant complained to the director of retail at Meatland that she was interested in a position of Assistant Manager at Meatland. In June of 1983, MeatLand took two stock clerks and put them in a training capacity to learn the job as an assistant manager.

In June of 1983 the Claimant went to the vice president of the Eastern Shore Market to complain about her not being promoted at Meatland the vice president for Meatland did not give a definite response to inform the Claimant why she was not promoted at Meatland -- M-E-A-T-L-A-N-D

In December of 1985, a stock clerk was promoted to the position of a grocery manager. In June of 1985 the Claimant complained to her immediate supervisor about the fact that she w-as not being promoted to the position of an assistant manager. Further, in March of 1986 the Claimant brought -- in writing about the problem of promotion within the Eastern Shore Market. Also, in March of 1986 the Complainant complained to the vice president at Meatland about the lack of promotion within the company. She was employed approximately six years as a head cashier, and the Claimant did not see anything positive about being promoted in the company at Meatland. The Claimant chose to resign her employment. The Claimant gave Meatland one week's notice of resigning her position.

CONCLUSIONS OF LAW

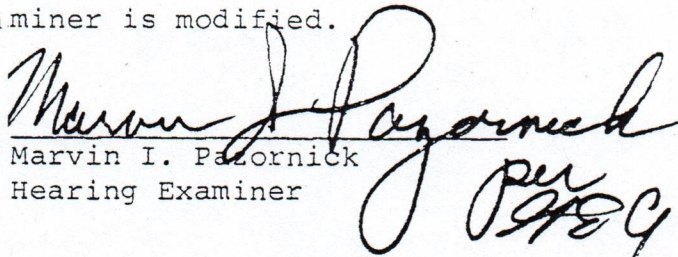
The Claimant resigned employment at the Eastern Shore Market due to her dissatisfaction that she was not promoted within the company. The Claimant complained to her immediate supervisor in December of 1985 about a promotion to the position of an assistant manager. The claimant had written the witten. complaint on March 16th, 1986 about the lack of promotion within the company. At the time the Claimant did complain to the vice president of Meatland about the lack of promotion. The claimant never was given a definitive answer about the lack of promotion or any timetable when she would be put in a training position to be promoted beyond the position of a head cashier. Claimant's reasons for leaving her employment at Eastern Shore Market do not constitute good cause under Section 6.

How-ever, there do not exist valid circumstances present to warrant less than the maximum penalty allowed by law. The determination of the Claims Examiner will be modified.

DECISION

The unemployment of the Claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6 (a) of the Maryland Unemployment Insurance La-w. Benefits are denied for the week beginning May 11, 1986 in the seven weeks immediately following.

The determination of the Claims Examiner is modified.


Marvin I. Pazornick
Hearing Examiner

Date of hearing: July 17, 1986
Cassette #4761-B, 4774 A-B

Copies mailed on: August 21, 1986 to:

Claimant
Employer
Unemployment Insurance - Crisfield