



Maryland

Department of Economic & Employment Development

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

— DECISION —

	Decision No.:	1858-BR-92	
	Date:	October 20, 1992	
Claimant:	Reginald K. Pitts	Appeal No.:	9208506
		S. S. No.:	
Employer:	B P S Guard Svcs, Inc.	L. O. No.:	001
		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 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

November 19, 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 findings of fact and conclusions of law of the Hearing Examiner.

The claimant worked for about a year and a half as a security officer. According to state law, those who work as security guards need clearance from the state police. During the police investigation of the applicants record, the employee may work on a probationary status.

This claimant was in such a probationary status when the police notified the employer that he was not approved to work as a security officer. The claimant had a right to appeal the denial of the police permit, but he did not do so. The reason for the denial of the permit is unknown. When the employer learned that the claimant had not filed an appeal, he was discharged.

The Board has not given any weight to the employer's statement that 99% of these denials are cleared up on appeal, allowing the employee to get his permit and go back to work. The employer's witness admitted that the employer was completely unaware of the reason for the particular denial of a permit. The assertion that the claimant could have easily cleared this up by appealing was pure speculation - especially in the light of the claimant's statement which implied that he was denied a permit because of something in his past.

The claimant will be held to have been discharged. The Board has held in the past that an employee's failure to appeal an employer's decision to discharge him does not change the discharge into a voluntary quit. This is an analogous situation. The claimant's failure to appeal the denial of his permit is not a quit. The fact is that the permit was denied, and the claimant was not allowed to work. This is a discharge. His failure to take further action cannot change the discharge into a quit.

There is no evidence of misconduct causing this discharge. The reason for the denial of a permit is totally unknown.¹ For the purposes of the unemployment insurance law, the claimant was discharged, but not for any proven misconduct.

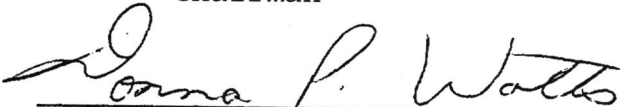
DECISION

The claimant was discharged but not for misconduct, within the meaning of Section 8-1003 of the Labor and Employment Article. No disqualification shall be imposed based upon his separation from employment with B P S Guard Services, Inc.

¹The claimant stated on the 221 that he was denied a permit because of his "past." This ambiguous statement is not enough evidence to find that the claimant had falsified his original employment application.

The decision of the Hearing Examiner is reversed.


Chairman


Associate Member

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CLAIMANT

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