



Maryland

Department of Economic & Employment Development

*William Donald Schaefer, Governor
Mark L. Wasserman, Secretary*

*Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201*

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

— DECISION —

<p>Claimant: Allen Neumayer, Jr.</p> <p>Employer: Genesco, Inc.</p> <p>Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of §8-1001 of the Labor and Employment Article.</p>	<p>Decision No.: 2209-BR-92</p> <p>Date: Dec. 18, 1992</p> <p>Appeal No.: 9217930</p> <p>S. S. No.:</p> <p>L. O. No.: 40</p> <p>Appellant: CLAIMANT</p>
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— 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

January 17, 1993

— 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 Board adopts the findings of fact of the Hearing Examiner. Based on these facts, however, the Board reaches different conclusions of law.

Where an employer has promised an employee that it will adhere to a promotional process, the failure to live up to that promise constitutes a good cause, connected with the conditions of employment, for leaving the job. Just as an employee has the obligation to act according to the conditions of the employment contract, the employer has a corresponding obligation. In this case, the failure to provide the promised promotional book and test, despite the claimant's repeated requests over a number of months, was a substantial deviation from the promised conditions of employment. This constitutes good cause within the meaning of §8-1001 of the Labor and Employment Article.

DECISION

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

The decision of the Hearing Examiner is reversed.

Thomas W. Keech
Chairman

Donna P. Watts
Associate Member

K:DW

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT

 **Maryland**
Department of Economic &
Employment Development

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Mark W. Wasserman, Secretary

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

Room 511
1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: (410) 333-5040

— DECISION —

Date:	Mailed: 10/22/92
Claimant:	Appeal No.: 9217930
Allen Neumayer, Jr.	S. S. No.:
Employer:	L. O. No.: 040
Genesco, Inc.	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. Whether there is good cause to reopen this dismissed case, within the meaning of COMAR 24.02.06.02 (N).

— 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

November 6, 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:

Claimant - Present

FOR THE EMPLOYER:

Not Represented

FINDINGS OF FACT

The claimant had a prior hearing scheduled for September 21, 1992 at 1:00 p.m. The claimant failed to appear and the matter was properly dismissed. The claimant properly petitioned to have the matter reopened. The reason the claimant was not present on September 21, 1992 that he did not get notice of the hearing on

that date. This Hearing Examiner will find good cause to have the case reopened pursuant to COMAR 24.02.06.02(N).

The claimant worked for the employer from June 10, 1991 through July 22, 1992. He was employed as a salesperson and earned \$260 per week plus commission.

The claimant voluntarily quit his employment on or about July 22, 1992 because he was dissatisfied with his job. The claimant was hired in June, 1991 and was told that he was going to become an assistant manager. The claimant was told that there was a multi-step process to becoming an assistant manager. The claimant was told that he had to take two tests, one after three months and another after six months to become an assistant manager. The claimant did complete the first test by the employer satisfactorily. The claimant then continued to ask the employer for the second test. The employer did not give the claimant the second book which was necessary for him to take the second test. The claimant waited several months and then asked his manager again for the second test. The claimant asked the district manager about the second book for the test. The district manager told the claimant to be patient and he would get to it. In December, 1991, the claimant again asked the general manager and his manager concerning the second book and test. The claimant was told to be patient. The company changed district managers and the new district manager came to the claimant in early 1992 and asked him what a 22-17 was. The claimant was not sure and did not give the new district manager the appropriate answer. In July, 1992, the claimant was well aware that one of the co-workers was leaving the employment. On July 22, 1992, the claimant arrived for work and was told that the co-worker was no longer leaving and was taking his job. The claimant was told that he would be transferred to the Glen Burnie store. The claimant was working at the Golden Ring Mall store. The claimant figures that the Glen Burnie store must be approximately thirty miles each way. The claimant was to receive a raise in the amount of \$40 per week for the transfer. The claimant refused the transfer and voluntarily quit his employment.

The claimant voluntarily quit his employment because of the transfer and the fact that the employer had not lived up to the promises that he anticipated.

CONCLUSIONS OF LAW

The claimant has shown good cause to have this case reopened pursuant to COMAR 24.02.06.02(N). That Section specifically cites that if a claimant does not receive adequate notice pursuant to the U.S. Postal Service or by error of the Agency that is good cause to have this case reopened.

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 his employment because he was dissatisfied with the job. The claimant was transferred to the Glen Burnie. The claimant did not seek to be transferred to the Glen Burnie but was told that would happen by the district manager. The claimant was to receive a raise for going to the Glen Burnie store. The claimant voluntarily quit his employment and has not shown good cause attributable to the employer for his leaving. The claimant has also failed to show good cause for separating from this employment since it is not unusual for an individual to be transferred from store to store. The claimant also did not complete the second portion of the test even though he requested the same. The testimony was unclear as to why the claimant had not continued to ask the new district manager for the second test.

DECISION

The claimant has shown good cause to reopen pursuant to COMAR 24.02.06.02(N).

The claimant voluntarily quit his employment, without good cause, within the meaning of MD Code, Labor and Employment Article, Title 8, Section 1001. Benefits are denied for the week beginning July 19, 1992 and until he becomes re-employed and earns at least ten times his weekly benefit amount (\$1,530) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is affirmed.

Kevin M. O'Neill P.S.
Kevin M. O'Neill
Hearing Examiner

Date of Hearing: 10/19/92
ps/Specialist ID: 40349
Cassette No: Attached to File
Copies mailed on 10/22/92 to:

Claimant
Employer
Unemployment Insurance - Eastpoint (MABS)