

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.:	24-BR-87
	Date:	January 16, 1987
Claimant:	Appeal No.:	8600888
	S. S. No.:	
Employer:	L.O. No.:	40
Werner's, Inc. ATTN: Jane Kloetzli	Appellant:	CLAIMANT

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 MAYBE 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON February 15, 1987

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals affirms the decision of the Hearing Examiner but disagrees with some of the reasoning of the Hearing Examiner.

The claimant was employed by Werner's Restaurant from January of 1985 until November of 1985. Her job classification was counter girl, and she was earning \$85.00 a week plus tips.

The claimant's last day of actual work was November 8, 1985. During the following week, the claimant became ill and was taken to the hospital for tests. During the following week, the claimant had to take various tests at the hospital in order to determine whether she had an ectopic pregnancy, a serious condition requiring surgery, or a normal pregnancy. The claimant kept the employer informed of her problem in a general way by conveying messages to her through other people. By the end of the following week, the claimant had learned that she was experiencing a normal pregnancy. On about November 18, 1985, the claimant asked a co-worker to inform the employer that she was quitting the employment because she was pregnant. The claimant made no further contact with the employer.

From about November 25, 1985 on, the claimant, although pregnant, was fully physical capable of working.

#### CONCLUSIONS OF LAW

The Board concludes that the claimant did voluntarily quit her job when she left word for her employer through an intermediary that she was quitting the employment and then failed to contact the employer on any occasion afterward. This conduct clearly shows an intent to voluntarily resign.

A claimant who voluntarily resigns has the burden of establishing that she has good cause or "valid circumstances" for leaving the employment, as those terms are used in Section 6(a) of the law. In this case, the claimant has failed to show any good cause. Indeed, the claimant's testimony is that she did not want to quit at all and was fired, but neither the Hearing Examiner nor the Board finds this testimony credible.

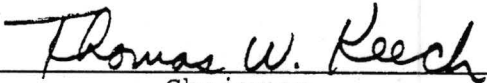
The claimant's attorney argues that, despite any disqualification under Maryland Law, the claimant left on account of pregnancy and she should therefore not be disqualified under the Federal law as interpreted by the Fourth Circuit Court of Appeals in the case of Brown v. Porcher 660 F.2d 1001 (1981). This case is not applicable here, however, since the claimant was fully able to work and was not physically restricted from working on account of her pregnancy. The claimant simply desired to stop working because she was pregnant. Even if

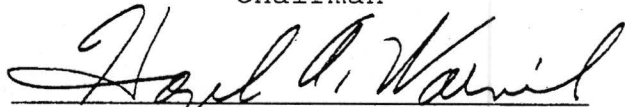
there were limitations on the claimant, the employer expressed an ability to accommodate the claimant. The claimant did not quit her employment because of the requirements of her pregnancy. She quit simply because she was pregnant and decided she did not wish to work anymore. This situation is clearly not covered by the Brown v. Percher case.

DECISION

The claimant voluntarily left her employment, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning November 3, 1985 and until she becomes reemployed, earns at least ten times her weekly benefit amount (\$600.00) and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is affirmed, for the reasons stated above.

  
Chairman

  
Associate Member

K:W  
kmb

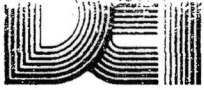
COPIES MAILED TO:

CLAIMANT

EMPLOYER

Hillel Traub, Esquire  
c/o University of Maryland  
School of Law

UNEMPLOYMENT INSURANCE - EASTPOINT



STATE OF MARYLAND  
HARRY HUGHES  
Governor

STATE OF MARYLAND  
1100 NORTH EUTAW STREET  
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Chief Hearing Examiner

— DECISION —

Date Mailed: 6-4-86  
Appeal No.: 8600888  
S. S. No.:  
Employer: Werner's, Inc. L.O. No.: 40  
Appellant: Claimant  
Claimant: Cynthia Gault

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 TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW 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 June 19, 1986

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Cynthia Gault - Claimant  
Gina Hertzig - Student  
Attorney; John Billmyre -  
Student Attorney; Karen  
Czapanskiy - Supervising  
Attorney; T. Skaggs - Witness;  
Summons witness: Ann Jancewski  
and Carolyn Maniche

Jane Kloetzli  
and Robert  
Kloetzli - Owners

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits, effective December 8, 1985.

The claimant was employed by Werner's Restaurant in January of 1985 to on or about November 8, 1985, her last job classification as a counter girl at earnings of \$85 a week, plus gratuities.

The employer would show great concern after the claimant would miss time from work due to domestic reasons. The claimant thought she was pregnant and she began losing time from work. The employer again showed great concern about the reasons for the claimant's absences, and after several days of lack of communication, instructed the claimant to call her at home on a particular Sunday. There was no communication between the claimant and her immediate supervisor/owner on that day. The claimant thereafter failed to communicate with the employer directly, even after she understood from a co-worker that she no longer had a job due to her pregnancy.

The claimant's absences were attributed to her concern as to

The employer would have permitted the claimant to continue to work, if only the claimant would have communicated directly to her. There were several telephone calls made by the claimant's friend.

#### CONCLUSIONS OF LAW

The claimant's action in failing to communicate directly to a concerned employer to determine her existing employment status after pregnancy demonstrates a will, design and intent to leave one's work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. There are no serious and/or valid circumstances present to warrant the imposition of a disqualification, less than the maximum permitted under the Maryland Unemployment Insurance Law, for her last employer would allow her to continue to work and expressed great concern previously about the reasons for her absences due to domestic problems.

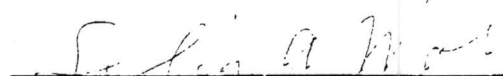
Under the above facts, the determination of the Claims Examiner shall be affirmed.

#### DECISION

The claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. The claimant is disqualified from receiving

unemployment insurance benefits for the week beginning November 3, 1985 and until such time as she again becomes re-employed, earns at least ten times her weekly benefit amount (\$600) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.

  
\_\_\_\_\_  
Selig A. Wolfe  
Senior Hearing Examiner

Date of hearing: 4/24/86  
amp/L. Hardin  
Cassette No. ?  
Copies mailed on June 4, 1986 to:

Claimant  
Employer  
Unemployment insurance - Eastpoint

Gina Hertzig,  
Student Attorney  
University of Maryland School of Law