

STATE OF MARYLAND

DEPARTMENT OF EMPLOYMENT AND TRAINING

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK

Associate Member

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Decision No.: 243-BH-87

Date: April 2, 1987

Claimant: Roy E. Ruckert

Appeal No.: 8609308

S. S. No.:

Employer: Mr. Kool Service Co., Inc.

L.O. No.: 50 (PA)

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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

May 2, 1987

— APPEARANCES —

FOR THE CLAIMANT:

Claimant not present

FOR THE EMPLOYER:

Frank Kollman,
Attorney;
Albert Solomon,
President;
Terry O'Grady,
Secretary

EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. 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.

The claimant was not present at the hearing before the Board, but did submit an affidavit, which the Board has accepted and admitted into the record. This affidavit was read to the employer's representative at the hearing and he was given an opportunity to respond to it. While affidavits are considered evidence, they are not given as much weight as live testimony. The claimant, however, did previously testify at the hearing before the Hearing Examiner.

FINDINGS OF FACT

The claimant was employed by Mr. Kool Service Company as an air conditioner mechanic from June, 1985 until he voluntarily quit on or about June 10, 1986. At the time that he quit, the claimant was working on an assignment in Gaithersburg, Maryland, at a distance of approximately 400 miles from his home in Freedom, Pennsylvania. He was living with his brother-in-law, who also worked for the employer. However, living so far from his family, whom he could not afford to move down to Maryland, became increasingly difficult for the claimant and created a personal hardship.

In addition to this problem, the claimant was angry with the employer because he believed he was entitled to a \$500 bonus for a prior job in the Salisbury area. In fact, the claimant misunderstood and was not entitled to the bonus, because the bonus had been promised to the men working on the job only if they completed the job in one month. It took them over two and one-half months to complete the job with additional help. As a result, none of the men on that job were given the \$500 bonus, including the claimant's brother-in-law. However, the claimant misinterpreted a \$500 loan to his brother-in-law from the employer and thought that his brother-in-law had received the bonus, while the claimant did not. His brother-in-law did reimburse the employer for this money.

One morning while working on the Gaithersburg assignment, the claimant felt he could no longer tolerate the distance from his family. He gave his two weeks' notice and quit.

CONCLUSIONS OF LAW

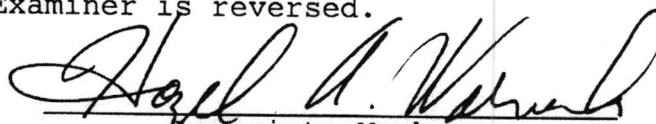
The claimant voluntarily resigned his job because he no longer wanted to work 400 miles from his family and just commute home on weekends. He was also still angry about the bonus, although he was mistaken, and in fact he was not entitled to that bonus. The Board concludes that his reasons for quitting his job, while not good cause, do constitute a substantial cause connected with the conditions of employment and is a valid circumstance within the meaning of Section 6(a) of the law.

The Board does not agree with the Hearing Examiner that the claimant's reason was good cause. The claimant worked for this employer for approximately a year, in various assignments all over the state of Maryland. He knew that the job entailed being away from his family in Freedom, Pennsylvania when he took the job. There is no evidence that the employer acted unreasonably in any way with regard to the claimant. However, since he was working extremely far from his family, whom he could only see on weekends, and did apparently make efforts to keep working even at the cost of his personal convenience, the Board finds that valid circumstances are justified, and a maximum penalty is not appropriate.

DECISION

The claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning June 8, 1986 and the nine weeks immediately following.

The decision of the Hearing Examiner is reversed.


Associate Member


Chairman

W:K
kbm

Date of Hearing: January 22, 1987

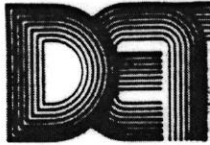
COPIES MAILED TO:

CLAIMANT

EMPLOYER

Frank Kollman. Esq.

OUT-OF-STATE CLAIMS



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5040

STATE OF MARYLAND
HARRY HUGHES
Governor

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 -

Date: Mailed 9/26/86

Claimant: Roy E. Ruckert

Appeal No.: 8609308

S. S. No.:

Employer: Mr. Kool Service Company,
Incorporated

L.O. No.: 50

Appellant: Claimant

Issue: Whether the claimant's unemployment was due to leaving work
voluntarily, without good cause, under 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 October 14, 1986

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present - accompanied by Wanda
Ruckert, claimant's wife, Witness
via telephone 9/22/86

Represented by Kelly
Moore, Assistant
Manager

FINDINGS OF FACT

The claimant filed a claim for benefits, effective July 20, 1986.

The claimant was employed by Mr. Kool Service Company,
Incorporated from June 5 to June 10, 1986. He was a air condition
mechanic, earning \$8.00 an hour.

The claimant left this job, because he was not paid a \$500 bonus
which was promised to him by the employer.

In addition, the claimant's home is in Freedom, Pennsylvania and he could not earn enough when he moved 400 miles away to the Gaithersburg area to support his wife and two children and also pay rent and his own expenses in the Gaithersburg area. The claimant quit employment.

CONCLUSIONS OF LAW

In the case of Cole v. Mortgage Credit Reports, Inc., 381-BR-84, the Board of Appeals held that claimant's resignation is for good cause where employer breaches promise to provide the claimant transportation, bonuses and pay raises.

In the case of Arness v. Martin Gillet Co., Inc., 1090-BR-83, the Board of Appeals held that the claimant's leaving of an unsuitable job after one day of employment which is undertaken through an innocent misunderstanding of the job duties constitutes a voluntarily quit, without good cause.

In this case, the claimant was unaware of his expenses, and under such circumstances, in view of the above-captioned cases, and because he was not paid the bonus, the determination of the Claims Examiner will be reversed.

DECISION

The claimant left work voluntarily, but with good cause, within the meaning of Section 6 (a) of the Maryland Unemployment Insurance Law. No disqualification is imposed, based on his separation from employment with Mr. Kool Service Company, Incorporated. The claimant may contact the local office concerning the other eligibility requirements of the Law.

The determination of the Claims Examiner is reversed.


John F. Kennedy
HEARING EXAMINER

DATE OF HEARING - 9/22/86
cd
6246/Reese

COPIES MAILED ON 9/26/86 TO:

Claimant
Employer
Out of State Claims