

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033



William Donald Schaefer, Governor
J. Randall Evans, Secretary

BOARD OF APPEALS

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

— DECISION —

Decision No.: 345-BH-89
May 1, 1989
Claimant: Mary Beth Haskell
Appeal No.: 8808942
S. S. No.:
Employer: Rommel Electric Company
ATTN : Margaret Surbaugh, Mgr.
P. O. Box 3236
L. O. No.: 43
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 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 AT MIDNIGHT ON May 31, 1989

— APPEARANCES —

FOR THE CLAIMANT:

Mary Beth Haskell - Claimant

FOR THE EMPLOYER:

Kevin McCormick-
Attorney
Donald Price -
Asst. Project
Manager

EVALUATION OF THE 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 Economic and Employment Development's documents in the appeal file.

FINDINGS OF FACT

The claimant began her employment with Rommel Electric Company, Inc. in December of 1987. The claimant continued in the employ of Rommel Electric Company, Inc. until May 23, 1988 at which time she quit her employment.

When the claimant first began her employment with this employer she had been a carpenter's apprentice and had experience in the field of carpentry. The claimant was asked if she wished to accept a position as a laborer. The claimant rejected this offer. The claimant was also offered a position as a street light mechanic. Again she rejected this offer. She was asked if she wanted to be a foreman of the crew doing the street light mechanic work. The claimant testified that she thought the employer was joking with her due to the fact that she had no experience in this area and certainly did not feel she had the qualifications to be a foreman. At a meeting held with her employers in December of 1987, the claimant again made it clear that she had no experience in the area of being a street light mechanic, muchless as foreman of the crew. The employer assured the claimant that they felt she had the qualities needed to be a foreman, and with training she would be able to do the job. The claimant was promised the training she r.ceded.

Under the conditions offered, specifically that she would be trained while working in the position of a foreman, the claimant accepted the job. She was employed at the rate of pay of \$12.00 per hour.

The claimant began her work as a crew leader or foreman in charge of installing street light bases. The employer was a subcontractor on a highway job, doing electrical work. The employer began to complain that the work was not being done on time and that the claimant didn't know how to do it. A decision was made to demote the claimant from the position of foreman to a street light mechanic. This demotion would also include a reduction in pay from \$12.00 an hour to \$10.75 per hour. At the time of this demotion the claimant was due for a raise that would have raised her hourly rate to \$13.40 per hour.

The claimant performed her job to the best of her abilities. Prior to being informed of her demotion the claimant had received no complaints about her work. Upon being informed of her demotion and her cut in pay, the claimant quit her employment with Rommel Electric Company, Inc.

CONCLUSIONS OF LAW

The Board of Appeals concludes that the claimant voluntarily left her employment, but with good cause connected with the work, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. The employer promoted the claimant to a position that they and the claimant knew she was not trained to perform. However, the employer promised to train her for the position and failed to do so. When the claimant, without having been trained properly, was not able to perform up to the level of expertise that the employer wished, the employer decided to demote her. This demotion also carried with it a substantial cut in pay. These facts are sufficient to warrant a finding that the claimant had good cause to quit her employment.

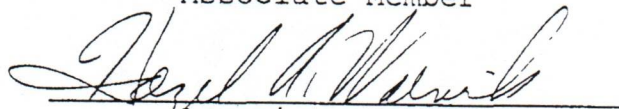
DECISION

The claimant voluntarily left her employment, but with good cause connected with the work, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is not disqualified from receiving unemployment insurance benefits by reason of her separation from employment on May 23, 1988.

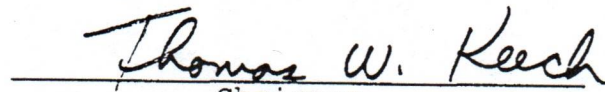
The decision of the Hearing Examiner is affirmed.



Associate Member



Associate Member



Chairman

D:H:K
kmb

DATE OF HEARING: February 28, 1989

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Kevin McCormick, Esquire
Whiteford, Taylor & Preston

UNEMPLOYMENT INSURANCE - WHEATON

STATE OF MARYLAND
APPEALS DIVISION
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
(301) 383-5040

STATE OF MARYLAND
William Conrad Schaefer
Governor

- DECISION -

Date: Mailed 11/15/88
Claimant: Mary Beth Haskell Appeal No.: 8808942
S.S.No.:
Employer: Rommel Electric Company, Inc. L.O. No.: 43
Appellant: Claimant

Issue: Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law. Whether there is good cause to reopen this dismissed case under COMAR 24.02.06.02N.

- 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 312, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201 EITHER IN PERSON OR BY MAIL. THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON November 30, 1988. NOTICE. 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:

FOR THE EMPLOYER:

Claimant - Present

Not Represented

FINDINGS OF FACT

This case was previously scheduled for hearing on September 16, 1988. The claimant failed to appear to present testimony on that date and the case was dismissed. The claimant had been out of state in Connecticut and did not receive the notice of the hearing and that's why she failed to appear at the hearing on September 16, 1988. She had found a job also and did not go to the hearing because she working at her new job which she held for only a few days because of lack of experience necessary to do that job.

The claimant worked for the employer in this case from January 27, 1988, until May 23, 1988. The claimant quit her job because she was receiving a demotion. The claimant had been employed as a supervisor and received foreman pay of \$12.00 per hour. She was due to get a raise to \$13.40, instead she was reduced to a Mechanic at \$10.75 per hour. The claimant had received no complaints about her performance from her employer and denies that she engaged in any acts of misconduct which would justify a demotion.

CONCLUSIONS OF LAW

The claimant failed to appear for an earlier hearing because of lacking notice due to being out of town and because she had another job and could not leave it at the very beginning of the job in order to come to the hearing. She will be given the benefit of the doubt and it will be found there is good cause to reopen the dismissed case.

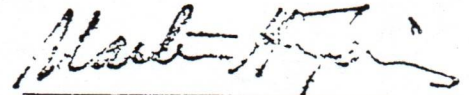
It will also be found that the claimant had good cause to quit her job because the employer failed to live up to the employment contract, and was reducing her salary without good cause demonstrated at this hearing under oath. The claimant, on the other hand, appears and testifies under oath that she always performed properly and had no complaints about her performance. Under these circumstances, she may not be disqualified from receiving unemployment insurance benefits under Section 6(a) of the Law, because the employer has failed to live up to the employment contract and she, therefore, had good cause for quitting.

DECISION

There is good cause to reopen the dismissed case under COMAR 24.02.06.02N.

The claimant voluntarily left her employment, but with good cause connected within the work, within the meaning of Section 6(a) of the Law. She is not disqualified from receiving unemployment insurance benefits by reason of her separation from employment on May 23, 1988.

The determination of the Claims Examiner is reversed.



Martin A. Ferris
Hearing Examiner

Date of hearing: 10/27/88
RII/Specialist ID: 43724
7166
Copies mailed on 11/15/88 to:

Claimant
Employer
Unemployment insurance - Wheaton (MABS)