

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.:	353-BR-89
	Date:	May 4, 1989
Claimant: Karen Mills	Appeal No.:	8813351
	S. S. No.:	
Employer: Martin Marietta Corporation c/o Frank Gates Serv. Co.	L. O. No.:	40
	Appellant:	CLAIMANT
Issue:	Whether the claimant left 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.

June 3, 1989

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals modifies the decision of the Hearing Examiner and concludes that, while the claimant's reason for quitting does not

constitute cause, there are valid circumstances, within the meaning of Section 6(a) of the law, warranting only a minimum disqualification.

The Board disapproves of the off-hand and callous wording of the decision, as well as the Hearing Examiner's unwarranted reliance on the use of a breast pump as an option to breast-feeding. This option was raised by the claimant herself, but her testimony was that it was not a viable option because the employer's physician, Dr. Whiteford, indicated to the claimant that as long as she was using breast milk at all, working around the chemicals that were present at her job site could be dangerous, and the employer would not permit this.¹

The employer's witness disputed the claimant's testimony on this point and referred to their letter to the claimant of September 29, 1988, as evidence that Dr. Whiteford believed that the claimant's decision to stay on leave and breast-feed was a personal choice and not based on medical necessity.

However, the document in the record, signed by Dr. Whiteford, authorizing an extension of the claimant's leave from October 21, 1988 to November 14, 1988 (a period after September 29, 1988) belies the employer's testimony. That document, an employer form, contains the following handwritten note by Dr. Whiteford under the heading "For medical reasons the following limitation(s) are required for the above-named employee":

Although medically approved to work is currently breast-feeding and works in an area - white room - of various chemical exposures.

That documentation, plus the letter from the claimant's pediatrician, verifying the medical need to provide her baby with breast milk, are sufficient, when coupled with the claimant's testimony, to show that she voluntarily quit her job (when the employer refused to extend her leave beyond November 14, 1988) for a cause of such a necessitous or compelling nature that the claimant had no reasonable alternative other than to quit, thus amounting to a valid circumstance pursuant to Section 6(a) of the law.

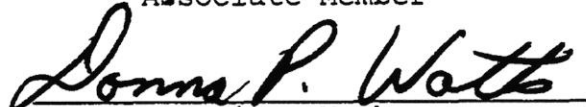
¹This was apparently why the claimant was placed on maternity leave by the employer in February, 1988, although she did not give birth until the end of July.

DECISION

The claimant left work voluntarily, without good cause but for a valid circumstance, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning October 2, 1988 and the four weeks immediately following.

The decision of the Hearing Examiner is modified.


Associate Member


Associate Member


Chairman

HW:W:K

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT

STATE OF MARYLAND
APPEALS DIVISION
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
(301) 383-6048

STATE OF MARYLAND
William Donald Schaefer
Governor

- DECISION -

Date: Mailed: March 6, 1989
Claimant: Karen R. Mills Appeal No.: 8813351
S.S. No.:
Employer: Martin Marietta Corp. LO. No.: 40
c/o Frank Gates Serv., Co. 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 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 SEC. OFFICE OR WITH THE APPEALS DIVISION, ROOM 518, 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 March 21, 1989
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:

Claimant

FOR THE EMPLOYER:

Donald Rainey, Senior Adminis-
trator, Employee Relations

FINDINGS OF FACT

From May 27, 1986 to February 1, 1988, the claimant worked as a composite bonder. She was earning \$8.26 per hour when she quit.

The claimant went on maternity leave on February 1, 1988. She gave birth on July 3, 1988. She was scheduled to return to work on October 3, 1988.

She did not return because her physician recommended that she breast feed her baby since he suffered from colic when given formula. Although the claimant lived five minutes from work and could have pumped her breasts, she chose to quit.

The testimony of the claimant and the statement from the claimant's physician are insufficient in that they lack details on prognosis, diagnosis and alternatives.

CONCLUSIONS OF LAW

Under Section 6(a) of the Maryland Unemployment Insurance Law: "If the individual leaves his employment because of a circumstance related to the health of the individual or another person who must be cared for by the individual, the individual must furnish a written statement or other documentary evidence of that health problem from a physician or hospital."


The medical documentation provided by Ms. Mills is insufficient to support a voluntary quit, with good cause or valid circumstance, under this Section of the Law.

DECISION

The determination of the Claims Examiner is affirmed.

"The claimant voluntarily quit, without good cause or valid circumstances, within the meaning of Section 6(a) of the Law.

Benefits are denied from the week beginning October 2, 1988 and until the claimant becomes re-employed and earns at least ten times her weekly benefit amount (\$2,050) and thereafter becomes unemployed through no fault of her own.


Van Caldwell
Hearing Examiner

Date of Hearing: February 14, 1989
Cassette: 1252
Specialist ID: 40302

Copies Mailed on March 6, 1989 to:
Claimant
Employer
Unemployment Insurance - Eastpoint (MABS)