



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
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Chairman
HAZEL A. WARNICK
MAURICE E. DILL
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SEVERN E. LANIER
Appeals Counsel
MARK R. WOLF
Chief Hearing Examiner

— DECISION —

	Decision No.:	373-BR-86	
	Date:	May 14, 1986	
Claimant:	Steven A. Diggs	Appeal No.:	8513200
		S. S. No.:	
Employer:	F.E. Vale, Inc. (Mr. Donut)	L.O. No.:	3
		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 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 June 13 , 1986

— 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 owner of the establishment at which the claimant was employed (Mr. Donut -- La Vale location) had been selling off the various locations one by one and was attempting to sell the La Vale location. The La Vale location was the only location left which was unsold. The claimant was in charge of that operation and knew from previous experience that he would be replaced when the location was sold.

Knowing that the business was being sold and that he would be laid off, the claimant made alternate plans to purchase (with others) his own bakery. After leaving Mr. Donut, he operated his own bakery for about four months.

Leaving work to become self-employed constitutes neither "good cause" nor "valid circumstances," as those terms are used in Section 6(a) of the law. In this case, however, although the claimant did become self employed, he did so only because of an expected layoff from his previous job. The claimant did not form an independent plan to become self employed; rather, he came up with the self employment plan because his regular job was coming to an end and he was shortly to be left without work. Under these circumstances, the Board concludes that the claimant's primary reason for leaving work was the impending lack of work at Mr. Donut.

In other cases in which an employee has left work upon learning that his job would be coming to an end in the near future, the Board has found that there was not good cause (because there was not a lack of work at the actual moment the claimant left work) but that there were "valid circumstances" (because the claimant was about to lose his job in the near future through no fault of See, e.g., the Board's decision in Blake v. Baltimore City Central Garage (894-BR-81. This case is analogous to that, and the Board will impose a similar penalty.

DECISION

The unemployment of the claimant 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 July 7, 1985 and the nine weeks immediately following.

The decision of the Hearing Examiner is reversed.

This denial of unemployment insurance benefits for a specified number of weeks will also result in ineligibility for Extended

Benefits and Federal Supplemental Compensation (FSC), unless the claimant has been employed after the date of the disqualification.


Chairman


Associate Member

K:W

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - CUMBERLAND



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Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Date: Mailed 2/3/86

Claimant: Steven A. Diggs

Appeal No.: 8513200

S. S No.:

Employer: Fe Vale, Incorporated
(Mr. Donut)

L.O. No.: 03

Appellant: Claimant

Issue: h-nether the claimant's unemployment was due to leaving work voluntarily, without good cause, under 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 MAYBE 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 February 18, 1986

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present

NOT REPRESENTED

FINDINGS OF FACT

The claimant filed a claim for benefits, effective November 3, 1985. His weekly benefit amount was determined to be \$175.00.

The claimant was employed by Fe Vale (Mr. Donut) from June 15, 1981 until July 10, 1985. He was manager of this retail operation, earning \$620.00 every two weeks gross. He worked at LaVale, Maryland.

The employer, Frank Coppa, was selling off several of his businesses, and decided to run the LaVale Mr. Donut operation

himself. The claimant's employment on July 10, 1985 with Frank Coppa was ended because of lack of work.

The claimant entered into an agreement to purchase the Frostburg Bakery as owner. He paid \$6,000 down and was paying \$12,060 annually in a mortgage. The claimant was the owner with his wife and they had three helpers. They operated the bakery for approximately four months and decided to sell it. They were able to sell it without a substantial loss, and only paid themselves a minimum draw. After the claimant ceased running his business which he sold, he was unemployed.

CONCLUSIONS OF LAW

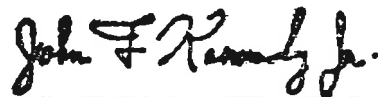
The Maryland Unemployment Insurance Law is to the effect that leaving work to become self-employed is a voluntary quit, without good cause or valid circumstances within the provisions of Section 6 (a) of the Law.

After reviewing the facts of the above-captioned case, it is concluded that the claimant voluntarily left work, without good cause or valid circumstances. The determination of the Claims Examiner will be affirmed.

DECISION

The claimant left work voluntarily, without good cause, within the meaning of Section 6 (a) of the Law. Benefits are denied for the week beginning July 7, 1985 and until he becomes re-employed, earns at least ten times his weekly benefits amount (\$1750), and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is affirmed.



John F. Kennedy, Jr.
HEARINGS EXAMINER

DATE OF HEARING - 1/8/86

cd

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Claimant
Employer
Unemployment Insurance - Cumberland