

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032

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

— D E C I S I O N —

Decision No: 384-BR-90

Date: April 20, 1990

Claimant: Geraldine Robinson

Appeal No.: 9001351

S. S. No.: _____

Employer: SES Temps, Inc.

L O. No.: 1

Appellant: EMPLOYER

Issue: Whether the claimant refused available, suitable work within the meaning of Section 6(d) of the law; whether the claimant was discharged for misconduct, connected with her work, within the meaning of Section 6(c) 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, 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 20, 1990

— A P P E A R A N C E S —

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.

The Hearing Examiner actually made no ruling on the issue on appeal in the case. The issue on appeal, as determined by the Claims Examiner, was whether the claimant was discharged from her employment for misconduct connected with the work within the meaning of Section 6(c) of the law. Since no ruling was made on this issue, the Board will issue such a ruling.

With respect to the Hearing Examiner's decision under Section 6(d) of the law, the Board will affirm that part of the ruling. The Board, however, disagrees with the reasoning used by the Hearing Examiner.

The Board makes the following findings of fact. The claimant signed up for work at this employer, a temporary employment agency. The claimant was first given an assignment on November 6, 1989. She worked as a warehouse worker and mail sorter for a client named Harte-Hanks from November 6, 1989 through November 22, 1989. She made \$3.75 per hour. Her actual last day of work was November 22, 1989. As of December 1, 1989, Harte-Hanks advised the employer that there was no further need for a temporary worker at their premises.

The employer attempted to call the claimant on December 4, 5 and 6, 1989, but was unable to reach her personally. The employer left a message that another assignment was available at Emptor Mailing Service. This assignment would have begun on December 4 and would have been approximately the same type of job. The claimant did not receive these messages. When she appeared at the work place to pick up her check on December 8, she was not told of any specific assignments. On December 8, however, a woman at the employer's premises did tell the claimant that she could come back in and apply for another job. It is unclear whether this woman was referring to Emptor Mailing Service or was simply making a general statement.

On December 18, SES Temps attempted to call the claimant about another assignment that was available at Harte-Hanks. The claimant, however, was never actually contacted.

The claimant remained physically able to work, but she had a medical problem which required some tests to be done and which eventually required surgery sometime in January.

The claimant's employment came to an end on November 22, 1989. As the Board stated in the case of Laster v. Manpower, Inc. (220-BR-90):

The employer [a temporary agency] may consider that any person who ceases calling the employer's premises on a regular basis for work has quit the