



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

— DECISION —

	Decision No.:	431 -SE-91
	Date:	April 18, 1991
Claimant: Jose A. Rivas	Appeal No.:	9010557
	S. S. No.:	
Employer: Miller & Long Company, Inc. c/o Gates, McDonald	L. O. No.:	50
	Appellant:	CLAIMANT
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law; whether the claimant was discharged for gross misconduct or misconduct, connected with his work, within the meaning of Section 6(b) or 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

May 18, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant present
Nancy Cherry, Claimant's Representative
Mairis Jimenez, Interpreter

Employer not present

EVLAUATION 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 worked for Miller & Long Company, Inc. from 1986 to June 11, 1990. He was employed as a laborer, and he was earning \$9.25 an hour. The claimant worked forty hours per week.

The claimant had been working at TRW Federal Park Project on Federal Park Drive in Fairfax, Virginia. Because work for the laborers was nearly complete, the claimant was transferred to a new job site at 3700 North Capital Street, Northwest, Washington, D.C. The transfer was to take effect on June 11, 1990. The claimant could not report for work at the new location because he was ill. He was suffering from a severe cold and sore throat. On June 11, 1990, he called the job site and spoke to Larry Mundy, Superintendent. After advising the superintendent of his illness, the claimant was advised to return to the job site as soon as he was physically able to do so.

The claimant was unable to work for thirteen days. Upon recuperating, he reported to the employer's job site ready to resume the duties of his position. The claimant was confronted by a different Superintendent. He had been discharged from his position, while he had been out due to illness.

CONCLUSIONS OF LAW

Article 95A, Section 6(c) provides for disqualification from benefits where a claimant is discharged for actions which constitute a transgression of some established rule or policy of the employer, a forbidden act, a dereliction of duty, or a course of wrongful conduct committed within the scope of the employment relationship, during hours of employment on the employer's premises.

In the present case, the claimant's discharge for failing to report for work while he was ill does not fall within the statutory definition of misconduct connected with his work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law.

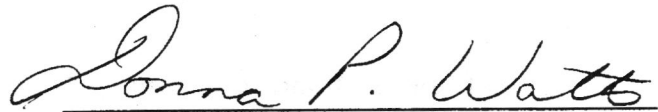
The decision of the Hearing Examiner will be reversed.

DECISION

The claimant was discharged, but not due to misconduct, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. No disqualification of benefits is warranted from the claimant's separation at Miller & Long Company, Inc.

The decision of the Hearing Examiner is reversed.

The claimant should now consult his local office with regard to the other eligibility requirements of the Maryland Unemployment Insurance Law.



Associate Member



Associate Member

W:W

kbm

Date of Hearing: March 13, 1991

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Ms. Nancy Cherry

OUT-OF-STATE CLAIMS



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

Claimant:	Jose A. Rivas	Date:	Mailed: 9/06/90
		Appeal No.:	9010557
	NW	S. S. No.:	
Employer:	Miller & Long Company, Inc. c/o Gates, McDonald	L.O. No.:	50
		Appellant:	Employer

Issue: Whether the claimant was discharged for gross misconduct connected with the work, within the meaning of Section 6(b) 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, 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

September 21, 1990

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Not Present

Betty Hebert,
Project
Administrator

FINDINGS OF FACT

The claimant worked as a laborer for Miller & Long Company, Inc. He was working on a project called the TRW Federal Park Project located on the Federal Park Drive in Fairfax, Virginia. He was given a card to report for continuing employment as a laborer to a new project. The card told him the locality of the project and gave him specific directions how to get there. Other laborers who were working with the claimant in Fairfax, Virginia were

similarly transferred when the job was completed in Fairfax and they reported to the new job site. The new job site was at 3700 North Capitol Street, Nw, Washington, DC. The claimant knew he was to report to work because he called in on June 11, and stated he was ill. He never was heard from since. After five consecutive work days, the employer considered that the claimant abandoned his job. The job on North Capitol Street, NW, in Washington was closer to the claimant's home than he had worked when he was in Fairfax, Virginia because the claimant lives on Mt. Pleasant Street, NW, in Washington, DC.

CONCLUSIONS OF LAW

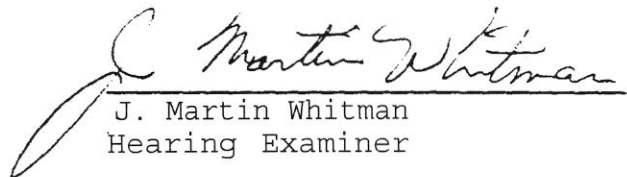
Article 95A, Section 6(a) provides that an individual shall be disqualified for benefits where his unemployment is due to leaving work voluntarily, without good cause arising from or connected with the conditions of employment or actions of the employer or without serious, valid circumstances. The preponderance of the credible evidence in the record will support a conclusion that the claimant voluntarily separated from employment, without good cause or valid circumstances, within the meaning of Section 6(a) of the Law.

Failure to report to work or to contact the employer after June 11 in this case, shows that the claimant, by his actions, intended to voluntarily abandon his job and did so.

DECISION

The unemployment of the claimant was caused by leaving work voluntarily, without good cause or valid circumstances, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning June 10, 1990 and until the claimant becomes re-employed and earns at least ten times his weekly benefit amount (\$1,550.00) and thereafter becomes unemployed through no fault of his own.

The determination of the Liable State Claims Unit of the Unemployment Insurance Administration is hereby affirmed.


J. Martin Whitman
Hearing Examiner

Date of Hearing: 8/31/90
alma/Specialist ID: 50504
Cassette No: 6505
Copies mailed on 9/06/90 to:

Claimant
Employer
Out-of-State Claims (MABS)