



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
Associate Member

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Decision No.: 490-BR-87

Date: JULY 8, 1987

Appeal No.: 8702682

S. S. No.:

Claimant: Janet Hardy

Employer: Blue Cross & Blue Shield

L.O. No: 9

Appellant: CLAIMANT

Issue: Whether the claimant was discharged for misconduct, connected with the work, within the meaning of Section 6(c) of the law and whether the claimant filed a timely appeal or had good cause for an appeal filed late within the meaning of Section 7(c)(3) 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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

August 7, 1987

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 reverses the decision of the Hearing Examiner and concludes that the claimant was discharged and that the employer failed to show the reasons for her discharge constitute misconduct, within the meaning of Section 6(c) of the law.

The claimant's uncontradicted testimony is that, prior to submitting her resignation, on or about December 7, 1986, she was told by her supervisor that she would be terminated the next day. Although this was verbal and not officially put in writing, it was a clear termination nonetheless. The fact that the claimant subsequently offered her resignation, in angry response to this announcement by her supervisor, does not change the fact that she was informed she was to be discharged. Further, the employer's refusal to allow her to revoke her resignation, while in and of itself not evidence of a discharge, does, in the particular circumstances of this case, lend credence to the claimant's assertion that the employer intended to discharge her.

The Board notes that, although the timeliness of the claimant's appeal from the Claims Examiner's determination, under Section 7(c)(3), was an issue, the Hearing Examiner failed to directly address it in his decision. However, the claimant did testify on this issue and since the Hearing Examiner modified the Claims Examiner's determination, it is obvious that he believed the claimant's testimony that she filed a timely appeal on January 19, 1987. The Board sees no reason to disturb that credibility determination by the Hearing Examiner.

DECISION

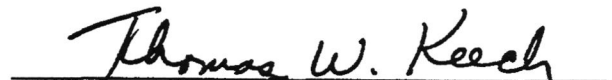
The claimant filed a timely appeal within the meaning of Section 7(c)(3) of the Maryland Unemployment Insurance Law.

The claimant was discharged, but not for misconduct, connected with the work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon her separation from employment with Blue Cross & Blue Shield.

The decision of the Hearing Examiner is reversed.

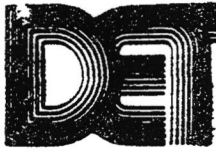


Associate Member



Chairman

W:K
kmb
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DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
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STATE OF MARYLAND
William Donald Schaefer
Governor

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK

Associate Member

SEVERN E. LANIER
Appeals Counselor

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Date: Mailed: 4/21/87

Claimant: Janet Hardy

Appeal No.: 8702682

S. S. No.:

Employer: Blue Cross & Blue Shield

L.O. No.: 09

Appellant: Claimant

Issue:

Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, under Section 6 (a) of the Law.

Whether the claimant filed a timely appeal or had good cause for an appeal filed late under Section 7 (c)(3) of the Law.

— 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 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 May 6, 1987

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present

Represented by Cindy Placko, The Gibbens Company, Incorporated

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits, effective December 21, 1986.

The claimant was employed by Blue Cross/Blue Shield from April 23, 1986 until on or about December 17, 1986, her last job classification was as a data entry operator at an hourly wage rate of \$6.69. The claimant was threatened with either termination or disciplinary action on her last date of work. The

claimant was previously placed on extended probation and, since that time, did not miss anytime from work. The claimant admits to missing approximately seven days from work prior to having her probation extended three days with approval to attend a Jehovah Witness meeting.

The claimant failed to report to work as scheduled due to transportation problem. She decided on her own initiative to come to work on a different schedule. She performed her job assignments at that different schedule without the employer expressing any dissatisfaction over what occurred.

At the time the claimant was threatened with disciplinary and/or termination for not being dependable or responsible as the manager indicated, she was told that a meeting would be scheduled to discuss the disciplinary procedure contemplated by this manager. The claimant became so angered that she immediately wrote a letter of resignation submitting it to management. Within two hours of this act, the claimant attempted to retrieve the resignation for she had a change of heart and desire to face the consequences with the scheduled meeting. Her request to rescind her resignation was denied by management who accepted it and told the claimant she no longer had a job.

CONCLUSIONS OF LAW

The claimant's act in submitting a letter of resignation in anger after being told that a meeting would be scheduled to discuss possible termination, demonstrates a will design and intent to leave one's work voluntarily, without good cause within the meaning of Section 6 (a) of the Maryland Unemployment Insurance Law. However, there are serious and/or valid circumstances present to warrant the imposition of a disqualification less than the maximum permitted under that Section, especially in view of the fact that the claimant did not miss anytime from work since being taken off extended probation and she did work a full day on a different work schedule after failing to report on her schedule due to a transportation problem.

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 December 14, 1986 and the nine weeks immediately following.

The determination of the Claims Examiner is modified accordingly.


Selig A. Wolfe
HEARING EXAMINER

DATE OF HEARING - 4/6/87

cd

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Claimant
Employer
Unemployment Insurance - Towson - (Pre-MABS)

The Gibbens Company, Incorporated