

 **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.: 515-BR-90

Date: May 31, 1990

Claimant: Leslie A. Levitt-O' Malley

Appeal No.: 9002894

S. S. No.:

Employer: Its Polite to Point
ATTN : Hollis G. Minor, Pres.

L O. No.: 8

Appellant: EMPLOYER

Issue: Whether the claimant was discharged for gross misconduct or misconduct, connected with the 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 AT MIDNIGHT ON June 30, 1990

— 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 claimant in this case became unhappy with her supervisor's methods of supervision. A meeting was held in December of 1989 between the claimant, another employee and her supervisor. At least one other person was present for at least part of the meeting.

At that meeting, the claimant announced that she was looking for other employment. The claimant did not intend to quit her job unless she found better employment. She did not inform the employer that she was quitting. The employer, however, began searching for a replacement for the claimant. In early January of 1990, the employer informed the claimant that her last day of work would be January 19, 1990.

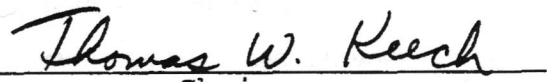
The facts of this case constitute a discharge. A statement by an employee that the employee is seeking, or is going to seek other work, simply is not the same as leaving work or resigning. The claimant thus did not voluntarily quit her job, within the meaning of Section 6(a) of the law.

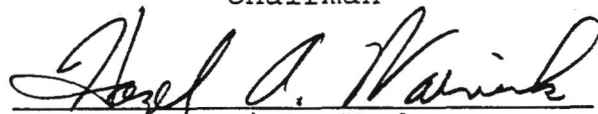
Looking for another job does not constitute any type of misconduct. Albin v. Martin Marietta (236-BR-83).

DECISION

The claimant did not voluntarily quit her job within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She was discharged, but not for gross misconduct or misconduct, connected with the work, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon the claimant's separation from employment with Its Polite to Point.

The decision of the Hearing Examiner is reversed.


Chairman


Associate Member

K:H

kmb

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - ANNAPOLIS



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

— D E C I S I O N —

		Date:	Mailed: 4/4/90
Claimant:	Leslie A. Levitt-O'Malley	Appeal No.	9002894
		1 S. S. No.:	
Employer:	Minor, Hollis Greer	LO. No.:	8
		Appellant	Claimant

Issue: Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) 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 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON 4/19/90

— A P P E A R A N C E S —

FOR THE CLAIMANT:	FOR THE EMPLOYER:
Claimant-Present	Not Represented
William O'Malley, Witness	

FINDINGS OF FACT

The claimant was employed as an Art Director for this needle point kit designer from January 16, 1989 until January 19, 1990. The claimant and another employee were unhappy with the way this business was run. In particular, the claimant-complained that the employer would reprimand workers in front of others and also that

she criticized the claimant's abilities. A meeting was held at which time the claimant stated her complaint and that she was looking for other work. The employer responded that she would start looking for a replacement for the claimant. By January 8, 1990, the employer had selected a replacement and needed to set a last day of work for the claimant. The claimant stated at that time she had several possibilities of employment and January 19, 1990, was set as her last day of work.

CONCLUSIONS OF LAW

The claimant indicated to her employer an intent to leave her job when she said that she was looking for another job due to her dissatisfaction with her work environment. Given that, the employer was justified in taking reasonable steps to replace the claimant. The claimant was not discharged from this job due to looking for other employment or for any other reasons. The employer only took steps to set a firm date for the claimant's departure once she indicated her intent to leave and a replacement had been found.

Article 95A, Section 6(a) provides that an individual shall be disqualified from 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. The facts established in the instant case do not demonstrate such good cause under the Law. However, Section 6(a) provides that a reduced disqualification may be imposed where the separation is precipitated by (1) a substantial cause connected with the conditions of employment or (2) another cause of such a necessitous or compelling nature that the claimant had no reasonable alternative but to leave the employment. The facts in this case demonstrate such valid circumstances, and therefore, a reduced disqualification is appropriate.

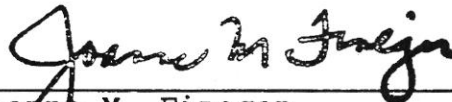
The facts support a finding of valid circumstances for quitting this job as the claimant was berated by her supervisor on several occasions regarding job performance in the presence of others. See Balsley v. Central Motor Dodge, 569-BR-83. But, this is not the prolonged humiliation which would support a finding of good cause as contemplated in the Sheckles, case.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, but with valid circumstances, within the meaning of Section 6(a) of the Maryland Unemployment

Insurance Law. Benefits are denied for the week beginning January 14, 1990 and the nine weeks immediately following.

The determination of the Claims Examiner is reversed.



Joanne M. Finegan
Hearing Examiner

Date of hearing: 3/15/90

rc

(2110)-Specialist ID: 08005

Copies mailed on 4/4/90 to:

Claimant

Employer

Unemployment Insurance - Annapolis - MABS