



# 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.:	532-BR-92
Date:	March 20, 1992
Claimant: Wilbur Simmons	Appeal No.: 9120395
	S. S. No.:
Employer: Flue Masters, Inc.	L O. No.: 45
	Appellant: <del>CLAIMANT</del> Employer
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 8-1001 of the Labor and Employment Article.

— 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

April 19, 1992

— APPEARANCES —

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 Board concludes that the claimant had neither good cause nor valid circumstances for quitting his job. The penalty imposed will therefore be increased.

The claimant quit after the employer became angry with him and raised his voice. The claimant's testimony was that the employer "kind of like yells" at him. But this occurred only twice, and the last occasion was the one which caused the claimant to quit. During the last part of his employment, the claimant had been criticized by his employer for working too slowly and for apparently losing all interest in his work.

On the last day of work, the claimant was assigned to brush out one of two chimneys on a customer's roof. The employer pointed out which chimney was to be cleaned. The employer warned the claimant not to begin until he was sure which chimney he was cleaning -- and, if he was not sure, to come down off the roof and ask.

The claimant cleaned the wrong chimney. In the process, he knocked a loose brick down the chimney. The employer and the customer were inside the house, and they heard the brick fall, hitting the sides of the chimney. The brick then landed inside the house, causing a cloud of soot to erupt into the customer's room. The employer then yelled at the claimant. The customer was not present when the employer raised his voice. There was no allegation of obscenity, profanity, or degrading terminology used.

The Board has issued many precedent decisions on this issue. Where an employer directed degrading language at the claimant in a loud tone of voice for over an hour, in circumstances where other employees were able to hear it, the Board found "good cause" for the claimant's voluntary quit. Sheckles v. Executive Commissary, Ltd. (790-BH-81). Where an employer continually yelled at a claimant, cursed her, blamed her for mistakes that were not her fault, grabbed papers out of her hand and on one occasion spit in her face, good cause was found. Siekierski v. Future Carpets (1022-BH-83).

Where a supervisor used coarse and belittling language in a loud voice on several occasions, criticizing the claimant for work which was completed in accordance with his own instructions, good cause was not found. Valid circumstances, however, were found. Balsley v. Central Motor Dodge (569-BR-83).

On the other hand, an employer's periodic bad moods and reprimands to the claimant for a failure to follow orders did not justify a voluntary quit, and neither good cause nor valid circumstances were found. Jordan v. Halper Distributors (369-BR-84).

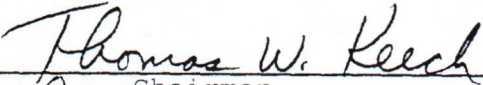


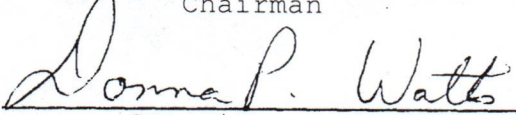
This case is closer to the Jordan case than any of the others. Although, in an ideal world, no supervisor would ever raise his voice to a worker, every instance of yelling does not arise to good cause or a valid circumstance. In this case, the employer was understandably frustrated by the claimant's blatant negligence, which caused the employer's business to appear to be totally incompetent to a customer. Although the Board is not condoning the use of harsh tones, the Board concludes that the employer's raising of his voice in these circumstances is not serious enough to amount to either good cause or a valid circumstance.

DECISION

The claimant left work voluntarily, without good cause, within the meaning of Section 8-1001 of the Labor and Employment Article. He is disqualified from receiving benefits from the week beginning September 29, 1991 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1,350), and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.

  
Chairman

  
Associate Member

K:DW

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - NORTHWEST



# Maryland

## Department of Economic & Employment Development

*William Donald Schaefer, Governor*  
*J. Randall Evans, Secretary*

*William R. Merriman, Chief Hearing Examiner*  
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*1100 North Eutaw Street*  
*Baltimore, Maryland 21201*

*Telephone: 333-5040*

### — DECISION —

Claimant:	Wilbur L. Simmons	Date:	Mailed: 1/22/92
		Appeal No.:	9120395
		S. S. No.:	
Employer:	Flue Masters, Inc.	LO. No.:	45
		Appellant:	Claimant

Issue Whether the claimant left work voluntarily, without good cause, within the meaning of MD Code, Labor and Employment Article, Title 8, Section 1001. Whether there is good cause to reopen this dismissed case, within the meaning of COMAR 24.02.06.02(N).

### — 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

FEBRUARY 6, 1992

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON

### — APPEARANCES —

FOR THE CLAIMANT:

PRESENT

FOR THE EMPLOYER:

THOMAS MICHAEL  
OWNER

### FINDINGS OF FACT

The claimant filed an appeal and the unemployment insurance appeal hearing was scheduled for December 2, 1991. The claimant had to get certain prescriptions from his doctor and he was late for the hearing. He then filed a petition for reopening of the dismissal on December 2, 1991. The case having been dismissed by notice mailed on December 3, 1991.



The claimant worked for about a year as a helper for the employer. First he was paid \$5.50 an hour and it was then increased to \$6.50 an hour.

When the employer discovered that the claimant's license for driving privileges was suspended, he was reverted back to \$5 an hour.

On several occasions, the employer told the claimant that he was losing money on him because the claimant was not working fast enough for the employer.

On the last day that the claimant worked, he was sweeping a chimney and there were two chimneys on the roof and the claimant cleaned the wrong chimney causing debris and soot to come to the basement. The customer found out about this. The employer agrees that he yelled at the claimant because he lost his temper because the claimant made this mistake. The employer was upset and was yelling at the claimant and then the claimant decided that he did not like the way the employer was treating him and the claimant quit his job.

#### CONCLUSIONS OF LAW

Good cause was shown for reopening this dismissed case pursuant to COMAR 24.02.06.02(n).

The claimant voluntarily left his employment because of the employer's yelling at him. This constitutes valid circumstances directly attributable to the conditions of the employment and, therefore, a mitigated disqualification should be imposed.

The Maryland Code, Labor and Employment Article, Title 8, Section 1001 (c) 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, Title 8, Section 1001 (c) 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.

## DECISION

Good cause is shown to reopen this dismissed case pursuant to the MD Code of Regulations governing the Unemployment Insurance Administration.

The unemployment of the claimant was caused by leaving work voluntarily, without good cause, but for valid circumstances, within the meaning of the MD Code, Labor and Employment Article, Title 8, Section 1001. Benefits are denied for the week beginning September 29, 1991, and for the four weeks immediately thereafter.

The determination of the Northwest Unemployment Insurance Administration office is hereby modified in favor of the claimant.

*Martin Whitman*  
⑤ Martin Whitman  
Hearing Examiner (ah)

Date of hearing: 1/16/92  
Specialist ID: 45557  
ah/Mailed copies on 1/22/92 to:

Claimant  
Employer  
Unemployment Insurance - Northwest MABS