



DEPARTMENT OF EMPLOYMENT AND TRAINING

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
383-5032

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERNE LANIER
Appeals Counsel

STATE OF MARYLAND

HARRY HUGHES
Governor

-DECISION-

CLAIMANT: Rebecca S. Kling

EMPLOYER: Shop Mart

DECISION NO: 572-BR-84

DATE: June 19, 1984

APPEAL NO: 11636

S.S. NO.:

LO. NO.: 1

APPELLANT: CLAIMANT

ISSUE: Whether the Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of § 6(a) 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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT July 9, 1984

-APPEARANCE-

FOR THE CLAIMANT

FOR THE EMPLOYER

REVIEW ON THE RECORD

Upon a review of the entire record in this case, including the testimony at both Appeals Referee's hearings, the Board of Appeals concludes that the Claimant voluntarily quit her job without good cause, but for a substantial cause directly attributable to the actions of her employer within the meaning of § 6(a) and therefore valid circumstances were present and the maximum disqualification is not warranted.

The Board finds that the employer did use some abusive language to the Claimant on the day she quit. In making this finding, the Board has noted the demeanor and language of the employer during the first hearing before an Appeals Referee, where he used a "curse" word on the record.

The evidence does not show that the employer continuously harassed the Claimant, as she alleged. However, the employer's conduct towards her on her last day of work does amount to a substantial cause, pursuant to § 6(a) and the maximum penalty is not warranted.

DECISION

The unemployment of the Claimant was due to leaving work voluntarily, without good cause, within the meaning of § 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning August 7, 1983 and the four weeks immediately following.

The decision of the Appeals Referee is modified to this extent.

This denial of unemployment insurance benefits for a specified number of weeks will also result in ineligibility for Extended Benefits, and Federal Supplemental Compensation, unless the Claimant has been employed after the date of the disqualification.


Associate Member


Associate Member

W:D
up

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Harry L. Chase
Attorney at Law

UNEMPLOYMENT INSURANCE - BALTIMORE



DEPARTMENT OF HUMAN RESOURCES
 EMPLOYMENT SECURITY ADMINISTRATION
 110 NORTH EUTAW STREET
 BALTIMORE, MARYLAND 21201
 383 - 5040

STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

BOARD OF APPEALS
 THOMAS W. KEECH
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 Associate Members
 SEVERN E. LANIER
 Appeals Counsel
 MARK R. WOLF
 Administrative
 Hearings Examiner

CLAIMANT: Rebecca S. Kling

DATE: Mar. 19, 1984

APPEAL NO.: 11636

S. S. NO.:

EMPLOYER: Shop Mart
 Attn: Bernard Gehr, Mgr.

L. O. NO.: 1

APPELLANT: Claimant

ISSUE: Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) 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 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 April 3, 1984

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Rebecca S. Kling - Claimant
 I. William Chase - Attorney
 Beverly Carter - Witness

Edward Gutman - Attorney
 Bernard Gehr - President
 Beatrice Hartman
 Cashier; Tom
 Chrysevergis - Manager;
 and Lorraine Pierpont -
 Cashier

The claimant had filed an original claim for benefits, effective September 4, 1983. She was disqualified by the Claims Examiner of the Department of Employment and Training with the maximum disqualification under Section 6(a) of the Law. The claimant filed an appeal and an appeal hearing was scheduled for Appeals Referee Matthew Zahner on October 17, 1983. Mr. Zahner reversed

the Claims Examiner's disqualification and qualified the claimant as eligible for benefits. The employer appealed Mr. Zahner's decision to the Board of Appeals who subsequently remanded the appeal back to the Lower Appeals Division for more specific FINDINGS OF FACT. The following decision is rendered by Gerald E. Askin, Appeals Referee, pursuant to the Board's Remand. This hearing is being held de novo.

FINDINGS OF FACT

The claimant began working for the employer, the operator of a super market, as a full-time cashier, August 1, 1982. Her last day of work was August 10, 1983 when she quit the employment by walking off the job approximately 11 A.M. The shift hours were from 9 A. M. to 2 P. M. The claimant quit when she became agitated after being admonished by Mr. Bernard Gehr, the President and owner, for leaving her work station and engaging in a conversation with another cashier, Beatrice Hartman. She protested to the manager, Tom Chrysvergis, and requested he take her off the register. The claimant was also disgruntled because she had been denied a request to take a vacation leave with her boyfriend, who was an employee.

The Appeals Referee finds as fact that the most extreme word used by Mr. Gehr, the President, in admonishing the claimant was "Damn" and that the tone of voice used by Mr. Gehr was not unusually loud or shouting in nature. The Appeals Referee also finds as fact that the president did use on occasion language around the store that might be considered abusive by some, but not directed at the claimant. In addition the claimant did complain to Mr. Chrysvergis before leaving the store but this was after she had formed the intention of quitting.

CONCLUSIONS OF LAW

The non-monetary determination of the Claims Examiner that the unemployment of the claimant was due to her having left work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law, is supported by the testimony before the Appeals Referee. The claimant separated herself from the employment on her own initiative when there was continuous work available to her and for reasons not directly attributable to, arising from, or connected with the conditions of employment or actions of the employer. This is not good cause

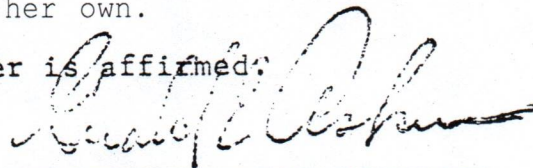
as defined by the Law, and it is for this reason the determination of the Claims Examiner should be affirmed. The language used by the president in admonishing the claimant was not abusive in nature to the extent that the claimant would have good cause for quitting the employment.

The Appeals Referee concludes that the claimant's reasons for quitting the employment do not constitute valid circumstances as provided for under the Law.

DECISION

The unemployment of the claimant was due to her having left" work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning August 7, 1983 and until she becomes re-employed, earns at least ten times her weekly benefit amount (\$940.00) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed:



Gerald E. Askin
Appeals Referee

Date of hearing: 3/2/84
amp/3803
(Parker)
1652 and 1648
Copies mailed to:

Claimant
Employer
Unemployment insurance - Baltimore

I. William Chase, Esquire

Edward Gutman, Esquire
Rlum. Yumkas, Mailman, Gutman & Denic, P.A.

Board of Appeals