



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
HARRY HUGHES
Governor

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
(301) 383-5032

BOARD OF APPEALS
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Chairman
HAZEL A. WARNICK
MAURICE E. DILL
Associate Members
SEVERN E. LANIER
Appeals Counsel
MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Decision No.: 650 -BR-86
Date: August 15, 1986

Claimant: Helen A. Stidham

Appeal No.: 8514060

S. S. No.:

Employer: Kelly Health Care

L.O. No.: 50

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 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 ON September 14, 1986

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals affirms the decision of the Hearing Examiner but does not agree with all of the reasoning of the Hearing Examiner.

The claimant was employed as a home health aide for Kelly Health Care from December of 1977 until August 9, 1985. She was earning \$225 per week at the time of separation from employment.

The claimant's husband is deaf and suffers from diabetes, which is uncontrolled. The medical note in the record states that the claimant's husband suffers from uncontrolled diabetes and that "his wife is here helping him as insulin is instituted." The note is dated December 31, 1985. An earlier note read into the record by the claimant, dated November 11, 1985, stated "his wife is needed to care of him."

In late September or early October, the claimant moved to Michigan in order to be with and take care of her husband.

In evaluating the evidence with respect to the primary reason that the claimant left her employment, the Board is faced with conflicting statements by the claimant. In her appeal letter, the claimant stated that she could not continue to perform her work (physically), though she did not so inform her employer. There is no question that the claimant moved to Michigan to be with her husband, but the important issue is whether she left just to join her husband out of state or whether she left to tend to the medical needs of her husband. The Board concludes that the claimant did not leave her job primarily to attend to her husband's medical needs on a daily basis. In making this decision, the Board has considered the claimant's statement in the file, dated October 10, 1985, that "I am able to work and available for full time work."

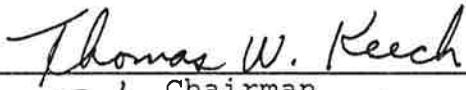

In a voluntary quit case under Section 6(a) of the law, the burden is on the claimant to show that the reason for leaving constitutes either "good cause" or "valid circumstances." The claimant has simply not carried that burden with consistent credible evidence of the reason for leaving work. For this reason, the decision of the Hearing Examiner will be affirmed.¹

¹ The Board does take exception, however, to the Hearing Examiner's statement that uncontrolled diabetes is not a serious disease.

DECISION

The claimant 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 4, 1985 and until she becomes reemployed, earns at least ten times her weekly benefit amount (\$1150.00) and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is affirmed.


Chairman

Associate Member

K:W

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Kelly Health Care
ATTN: Steve Vincent

OUT-OF-STATE CLAIMS



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Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Date: Mailed: March 5, 1986

Claimant: Helen A. Stidham

Appeal No.: 8514060

S. S. No.:

Employer: Kelly Health Care
ATTN: Steve Vincent

L.O. No.: 50

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 —

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THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON March 20, 1986

— APPEARANCES —

FOR THE CLAIMANT:

Helen A. Stidham - Claimant
(Telephone Hearing)

FOR THE EMPLOYER:

Steven Vincent
(Telephone Hearing)

FINDINGS OF FACT

The claimant was employed by Kelly Health Care from December, 1977 until August 9, 1985 as a home health aide. At the time of her separation from employment, the claimant was earning \$225.00 per week.

The claimant had fallen and injured her knee. She was released to return to work in July, 1985 and worked until August 9, 1985. Her husband became ill with uncontrollable diabetes. The claimant moved home to be with him and, additionally, about the same time the lady the claimant was taking care of broke her hip and had to be placed in a nursing home. The claimant was given until February 18, 1986 to furnish medical verification that she was needed to take care of her husband. Correspondence received on February 6, 1986 indicated that the claimant's husband is under treatment for uncontrollable diabetes and is taking insulin at home. It further indicated that he was not admitted and that his wife is there helping him as the insulin is instituted.

CONCLUSIONS OF LAW

The Board of Appeals has held that a claimant has valid circumstances for leaving employment to care for a seriously ill person, provided credible evidence is furnished. See Sortino v. Western Auto Supply Company, 896-BH-83. Here, the claimant furnished medical testimony which indicated that her husband suffers from uncontrollable diabetes and has begun taking insulin. The doctor indicated that the claimant assists her husband when the insulin is instituted. Based upon this evidence, submitted by the claimant, it cannot be concluded that her husband is either seriously ill or that the claimant is the only family member able to provide the necessary care. Under the circumstances, it must be concluded that the claimant voluntarily left her employment, without good cause, within the meaning of Section 6(a) of the Law, and that there are no serious, valid circumstances present to warrant less than the maximum disqualification. Therefore, the determination of the Claims Examiner under Section 6(a) of the Law will be affirmed.

DECISION

The claimant voluntarily left her employment, without good cause connected with the work, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving unemployment insurance benefits for the week beginning August 4, 1985 and until the claimant becomes reemployed and earns at least ten times her weekly benefit amount (\$1150) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.



Seth Clark
Hearings Examiner

Date of hearing: February 3, 1986

ras

(0594 --- E. Griffin)

Copies mailed on March 5, 1986 to:

Claimant

Employer

Out of State Claims



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— DECISION —

Decision No.: 650 -BR-86

Date: August 15, 1986

Claimant: Helen A. Stidham

Appeal No.: 8514060

S. S. No.:

Employer: Kelly Health Care

L.O. No.: 50

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.

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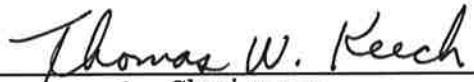
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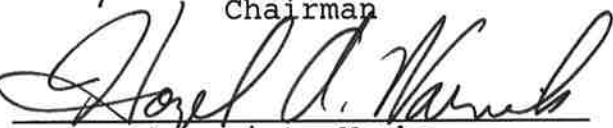
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Chairman


Associate Member

K:W

kmb

COPIES MAILED TO:

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EMPLOYER

Kelly Health Care
ATTN: Steve Vincent

L

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Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Date: Mailed: March 5, 1986

Claimant: Helen A. Stidham

Appeal No.: 8514060

S. S. No.:

Employer: Kelly Health Care
ATTN: Steve Vincent

L.O. No.: 50

Appellant: Claimant

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