

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (410) 333-5032

Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

*See page 2 for correction.

CORRECTED
— **DECISION** —

Decision No.:	77-BR-93
Date:	January 15, 1993
Appeal No.:	9222498
S. S. No.:	
Claimant:	Duel V. Winchester, Jr.
Employer:	Wareheim Air Brakes, Inc. Attn: Linda Payne
L. O. No.:	050
Appellant:	CLAIMANT
Issue:	Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §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

February 14, 1993

— **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 Hearing Examiner incorrectly concluded that §8-1001 of the Labor and Employment Article requires that medical documentation specifically state that the claimant's assistance was needed by his mother. §8-1001(c)(2) only requires that:

an individual who leaves employment because of the health of . . . another for whom the individual must care, . . . shall submit a written statement or other documentary evidence of the health problem from a hospital or physician.

The documentation previously submitted by the claimant was sufficient to meet this requirement of the law. The claimant has submitted additional documentation with his appeal letter that specifically addresses this issue. The Board will admit that statement into evidence, but its admission does not change the outcome in this case.

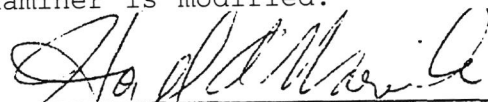
Of course, whether a claimant's assistance was actually needed is an issue of fact that the trier of fact must make. The Board finds, based solely on the testimony and evidence before the Hearing Examiner, that his assistance was needed. The claimant therefore has shown that he quit for a reason of such a compelling nature that he had no reasonable alternative other than to quit his job, amounting to valid circumstances, within the meaning of §8-1001 of the law.

DECISION

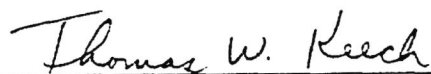
The claimant left work voluntarily, without good cause, but for valid circumstances, within the meaning of §8-1001 of the Labor and Employment Article. He is disqualified from receiving benefit; from the week beginning August 9, 1992 and the nine weeks immediately following.

This penalty will also disqualify the claimant from receiving federal extended benefits, unless he has been employed after the date of his disqualification.

The decision of the Hearing Examiner is modified.



Associate Member



Chairman

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COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE -OUT OF STATE



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Mark L. Wasserman, Secretary*

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*Board of Appeals
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Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member*

— DECISION —

Decision No.: 77-BR-93
Date: January 15, 1993
Appeal No.: 9222498
S. S. No.:
L. O. No.: 050
Appellant: CLAIMANT

Claimant: Duel V. Winchester, Jr.

Employer: Wareheim Air Brakes, Inc.
Attn: Linda Payne

Issue: Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §8-1001 of the Labor and Employment Article.

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February 14, 1993

— APPEARANCES —

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FOR THE EMPLOYER:

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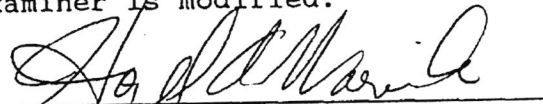
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DECISION

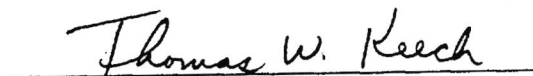
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The decision of the Hearing Examiner is modified.



Associate Member



Chairman

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ubm

COPIES MAILED TO:
CLAIMANT
EMPLOYER
UNEMPLOYMENT INSURANCE -OUT OF STATE

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark W. Wasserman, Secretary

Gary W. Wiedel, Administrator
Louis Wm. Steinwedel, Chief Hearing Examiner

Room 511
1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: (410) 333-5040

— DECISION —

Mailed: 11/24/92

Claimant:	Duel V. Winchester, Jr.	Date:	9222498
		Appeal No.:	
		S. S. No.:	
Employer:	Wareheim Air Brakes, Inc.	L. O. No.:	50
		Appellant:	Claimant

Whether the claimant left work voluntarily, without good cause,
Issue: within the meaning of MD Code, Title 8, Section 1001.

— 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

12/9/92

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON

NOTE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

— APPEARANCES —

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

Linda Payne

FINDINGS OF FACT

The claimant worked in the machine shop of the employer for seven years. He quit to return to Waynesville, North Carolina to care for his ill mother.

There is a letter from his mother's physician in the file, but it does not indicate that she needed the claimant's assistance.

CONCLUSIONS OF LAW

The Maryland Code, Labor and Employment Article, Title 8, Section 1001 provides that an individual shall be disqualified for 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 preponderance of the credible evidence in the record will support a conclusion that the claimant voluntarily separated from employment, without good cause, within the meaning of Title 8, Section 1001.

Under this Section of the Law, a claimant who voluntarily quits to assist another must produce medical documentation that their assistance was needed. The claimant did not meet this requirement.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of the Maryland Code, Labor and Employment Article, Title 8, Section 1001. Benefits are denied for the week beginning August 9, 1992 and until the claimant becomes re-employed, and earns at least ten times his weekly benefit amount (\$1,960) in covered employment, and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is affirmed.


Van D. Caldwell
Hearing Examiner

Date of hearing: 11/23/92
rc/Specialist ID: 50520
Copies mailed on 11/24/92 to:

Claimant
Employer
Out of State Claims - MABS