

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

BOARD OF APPEALS

Thomas W. Keech
Chairman

Hazel A. Warnick
Associate Member

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033



William Donald Schafer, Governor
J. Rancall Evans, Secretary

Decision No.: 801-BR-87
Date: Nov. 12, 1987
Appeal No.: 8708267
S. S. No:
Employer: Ward Component Systems, Inc. LO. No.: 23
Appellant: CLAIMANT

Claimant: Eileen E. Bishop

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.

December 12, 1987

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— 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 gave as her main reason for leaving, the fact that she was required to work overtime (above 40 hours per week) but was not paid overtime wages. The employer did not dispute this, and the Board finds as a fact that the claimant worked a substantial number of hours over 40 per week in the three weeks of her employment, but was not paid for it.

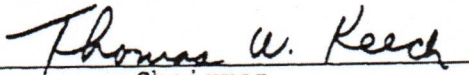
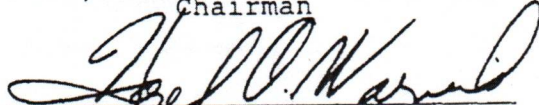
The Board has ruled in the past that the failure of an employer to pay overtime compensation in violation of the federal Fair Labor Standards Act (and regulations at 29 C.F.R. Section 778.103) is good cause for voluntarily quitting a job under Section 6(a) of the law. Dunbar v. St. Charles Fitness Center (726-SE-83). In this case, the failure to pay overtime violates the regulation cited above and constitutes good cause. The overtime practice also violates Article 100, Section 83(3) of the Maryland Annotated Code. The employer's apparent contention (in its letter of 7-24-87 to the claimant) that the claimant is an exempt employee under Article 100, Section 82(e)(2) is frivolous. See, COMAR 09.12.41.01.

Since the claimant's reason for leaving constitutes good cause under Section 6(a), no penalty will be imposed based on the reason for separation from employment.

DECISION

The claimant left work voluntarily, but for a good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon her separation from employment with Ward Component Systems, Inc. The claimant may contact the local office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.


Chairman

Associate Member

K:W

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTON



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

STATE OF MARYLAND
William Donald Schaefer
Governor

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BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK

Associate Member:

EVERN E. LANIER

Appeals Counsel

MARK R. WOLF

Chief Hearing Examiner

DECISION

Date Mailed: September 25, 1987

Claimant: Eileen E. Bishop

Appeal No.: 8708267

S. S. No.:

Employer: Ward Component Systems, Inc. Inco. No.: 25

Appellant: Claimant

Issue: Whether the Claimant voluntarily quit his employment, 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 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 October 13, 1987

APPEARANCES

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER:

Charlotte Hastings,
Sales Support Manager

FINDINGS OF FACT

The Claimant was employed by Ward Component Systems from June 15, 1987 until July 10, 1987 as a customer service representative. This was a full-time position which paid the Claimant \$5.75 per hour.

The Claimant quit her position because she was not paid for

the overtime she worked and did not get holiday pay for the 4th of July which occurred during the course of her employment. At the interview conducted before the Claimant was hired, she was told that it would be a 40-hour work week with no overtime. The employer also has a policy that you have to work for this employer for 60 days before you receive holiday pay. Additionally, vacation pay and sick pay are accrued after 90 days of employment but do revert back to the date of the start of employment.

The Claimant's position was historically a 40-hour per week job. The fact that the Claimant took more than 40 hours to accomplish her task was because it was taking the Claimant time to learn her position.

The Claimant is still unemployed.

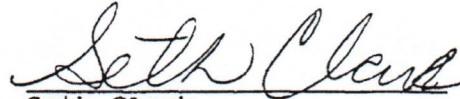
CONCLUSIONS OF LAW

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. Here, the Claimant left her job because she felt she should have been paid for overtime and because she failed to receive holiday pay for a holiday that occurred during the course of her employment. Since the Claimant was informed concerning the holiday pay at the time of her employment and also told by the employer that overtime work could be applied for doctors' and other appointments and personal business, it is concluded that her separation from employment was not because of the actions of the employer or the conditions of her employment. There is not good cause for the Claimant's resignation, nor are there any serious, valid circumstances present to warrant less than the maximum disqualification. Therefore, the determination of the Claims Examiner 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 July 5, 1987 and until she becomes re-employed and earns at least ten times her weekly benefit amount (\$1760) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.



Seth Clark
Hearing Examiner

Date of Hearing: 9/9/87
Cassette: 5220 (Tieder)
Copies Mailed on September 25, 1987 to:
 Claimant
 Employer
 Unemployment Insurance - Easton (MABS)