

 **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.:	956-BH-90
	Date:	Sept. 26 , 1990
Claimant: Helen G. Hanna	Appeal No.:	9006531
	S. S. No.:	
Employer: Clinton Dental Lab, Inc. ATTN : Robin Smith, Co-owner	L O. No.:	50
	Appellant:	CLAIMANT
Issue:	Whether the claimant left 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, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

October 26, 1990

— APPEARANCES —

FOR THE CLAIMANT:

Helen Hanna, Claimant

FOR THE EMPLOYER:

Employer not
represented

EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Economic and Employment Development's documents in the appeal file.

FINDINGS OF FACT

The claimant was employed by Clinton Dental Lab, Inc. as an assistant dental technician, from March, 1989 until she voluntarily quit on or about March 22, 1990. The claimant

room lacked ventilation, and because the claimant had to be in that room a great deal of time, she constantly felt burning and irritation in her eyes and throat.

The claimant repeatedly complained to her employer about this problem, and the employer responded that the problem would eventually be resolved when the machine was moved to a different area. However, during the entire time of the claimant's tenure with the employer, the machine was not moved and the problem persisted. The claimant was afraid that if she continued to work there under these conditions, her health would be seriously impaired. Since her complaints fell on deaf ears, while the fumes and the particles continued to irritate her, she felt she had no alternative other than to quit her job.

After she quit, she first became aware of the Maryland Department of Occupational Safety and Health ("MOSH"), a Division of the Department of Licensing and Regulation. She filed a complaint with that Department even though she had already quit her job. MOSH sent a letter to the employer notifying them of these complaints, and within ten days of the time that letter was received, the employer sent a response back to MOSH, stating that they had: "removed the burned out ovens and casting machines from the room where they were originally and placed them in a separate room. . . . We have had an exhaust system installed in this room to remove the fumes from the room. Enclosed is a copy of the electrician's invoice detailing the wiring and installation of the exhaust fan."

CONCLUSIONS OF LAW

The Board concludes that the claimant voluntarily quit her job, but for good cause connected with the conditions of her

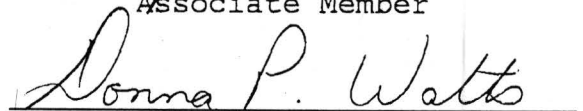
employment, within the meaning of Section 6(a) of the law. While the employer's response to MOSH came after the claimant had already left, the Board finds that response to be very relevant to the issue of whether the machine in question was creating fumes and causing problems for the claimant. Although nothing was done for the seven months that the claimant complained directly to the employer, within ten days after she filed a formal complaint with a state agency, the employer took steps to correct this problem. The Board finds that this supports the claimant's allegations that there were unhealthy fumes and particles and that these were the cause of her quitting her job. Since she quit for a reason directly connected with the conditions of her employment, after giving the employer ample opportunity to correct the problem, the Board finds that she had good cause for quitting her job.

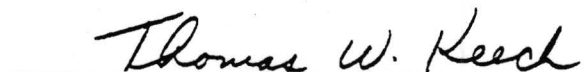
DECISION

The claimant left work voluntarily, but for good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. No disqualification is imposed based on her separation from employment with the Clinton Dental Lab, Inc.

The decision of the Hearing Examiner is reversed.


Associate Member


Associate Member


Chairman

HW:W:K
kbm

Date of Hearing: August 14, 1990
COPIES MAILED TO:

CLAIMANT

EMPLOYER

OUT-OF-STATE CLAIMS

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

Date: Mailed: June 4, 1990

Claimant: Helen G. Hanna

Appeal No.: 9006531

S. S. No.:

Employer: Clinton Dental Lab. Inc.

LO. No.: 50

Appellant: Claimant

Issue: Whether the unemployment of the claimant 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 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

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON June 19, 1990

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Helen G. Hanna - Claimant
Caroline Crowder - Witness

Robin Smith,
Co-owner

FINDINGS OF FACT

The claimant has been employed by Clinton Dental Lab, Inc. from March 13, 1989 to March 22, 1990 as an assistant dental technician.

The claimant resigned employment with Clinton Dental Lab, Inc. because lack of ventilation where the claimant worked affected the claimant's throat and caused burning to her eyes. The claimant complained to her supervisor numerous times that the lack of ventilation was irritating her throat and caused burning to her eyes.

The claimant did not go to a doctor for throat irritation or burning of her eyes. Clinton Dental Lab, Inc. had two fans in the room that the claimant worked.

CONCLUSIONS OF LAW

Article 95A, Section 6(a) 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 or without serious, valid circumstances. The preponderance of the credible evidence in the record will support a conclusion that the claimant voluntarily separated from employment, without good cause or valid circumstances, within the meaning of Section 6(a) of the Law.

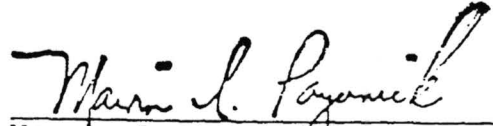
The claimant resigned employment at Clinton Dental Lab, Inc. because of lack of ventilation was causing the claimant throat irritation and burning of her eyes. Section 6(a) of the Law states that if an individual leave his employment because of a circumstance relating to the health of the individual, the individual must furnish a written statement or other documentary evidence of that health problems from a physician or hospital. Since the claimant did not submit a medical document in regards to her throat irritation and burning to her eyes, it will be held that the claimant voluntarily quit, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law.

Benefits are denied for the week beginning March 18, 1990 and until she becomes re-employed, earns at least ten times her weekly benefit amount (\$1390) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.


Marvin I. Pazornick
Hearing Examiner

Date of Hearing: May 29, 1990
bch/Specialist ID: 50507
Cassette No: 4095-B
Copies mailed on June 4, 1990 to:

Claimant
Employer
Out of State Claims - (MABS)