



**DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION**

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032
-- DECISION --

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLÉMAN
Secretary

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

DECISION NO.: 101-BR-83

DATE: January 24, 1983

APPEAL NO.: 13232

S. S. NO.:

CLAIMANT: Felix O. Weeks

EMPLOYER: Allen Foods

L. O NO.: 25

APPELLANT: CLAIMANT

ISSUE Whether the Claimant failed, without good cause, to accept suitable work when offered to him within the meaning of Section 6(d) 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

February 23, 1983

- 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 Appeals Referee and concludes that the Claimant did not fail to accept an offer of suitable work, within the meaning of § 6(d) of the Law.

The Claimant did not refuse an offer of suitable work. Due in part to a misunderstanding on the part of the Employer, and in part to the Claimant's desire to wait one day to see if another prospective job offer was made, the job offer was withdrawn by the Employer. The Board does not find that the actions of the Claimant were unreasonable under the circumstances nor in violation of § 6(d).

DECISION

The Claimant did not fail, without good cause, to accept suitable work within the meaning of § 6(d) of the Maryland Unemployment Insurance Law. No disqualification is imposed under this section of the law.

The decision of the Appeals Referee is reversed.

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Zs

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTON



DEPARTMENT OF HUMAN RESOURCES
 EMPLOYMENT SECURITY ADMINISTRATION
 1100 NORTH EUTAW STREET
 BALTIMORE, MARYLAND 21201
 383 - 5040

BOARD OF APPEALS
 THOMAS W. KEECH
 Chairman
 MAURICE E. DILL
 HAZEL A. WARNICK
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 Appeals Counsel
 MARK R. WOLF
 Administrative
 Hearings Examiner

STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

- DECISION -

CLAIMANT: Felix Weeks

DATE: Dec. 13, 1982

APPEAL NO.: 13232

S. S. NO.:

EMPLOYER: Allen Foods

L. O. NO.: 25

APPELLANT: Claimant

ISSUE: Whether the claimant failed, without good cause, to accept suitable work when offered to him within the meaning of Section 6(d) of the Law.

NOTICE OF RIGHT OF FURTHER APPEAL

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAYBE 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON Dec. 28, 1982

- APPEARANCES -

FOR THE CLAIMANT:

Present, accompanied by
 Leroy Newcomb, witness

FOR THE EMPLOYER:

Represented
 by Donna Fountain,
 Personnel Assistant,
 Employment Security
 Other: Local Office,
 Dewey Reed, Unemployment Insurance
 Supervisor & Judith Tieder,
 Unemployment Insurance Claims Associate

A hearing was originally scheduled for November 18, 1982 at noon at the Easton Local Office at which time the claimant appeared and a representative of the Employment Security Administration appeared. At that time, the employer was not a designated party to the proceedings. After the testimony of the claimant was received, the Agency as an interested party, made a

request for a continuance of the matter to afford the involved employer an opportunity to present testimony and evidence. In view of the Agency's status as an interested party to these proceedings, as protector or custodian of the fund, the matter was continued to November 30, 1982. The evaluation of the evidence, a verbal statement and written notarized statement was offered by the claimant's witness, that no work was offered the claimant by Allen Foods on October 7, 1982 of any kind in any department, and that they were told no positions were available. The claimant presents a notarized statement over the signature of David J. Moore, Director of Personnel, dated October 19, 1982 which states that: "Weeks was not offered employment on October 7, 1982. We have no positions available." Said statement was duly notarized by a notary public of the State of Maryland on October 19, 1982. The claimant's testimony and evidence reveals that he reported as directed by the Maryland State Employment Service to Allen Foods to apply for available, suitable work. The claimant indicated a preference for work in the Receiving Department of which there was none, but he asserts that it was ready, willing and able to accept any other work available. The employer asserts that he was ready, willing and able to hire the claimant that day for work in the Cut-up Department, but that he was not ready to accept the position, as he had a pending interview with another prospective employer on the following day. When the employer learned of this, it discontinued its offer of employment to the claimant. Later, when the claimant returned to Allen Foods to clarify what was termed a misunderstanding, he then received the notarized statement that no positions were available. All available positions were filled on October 7, 1982. The claimant contends that he did not refuse employment, but that he was told by the personnel assistant that no positions were available.

Some statements were raised at the hearing referring to the claimant's attitude or eligible status for unemployment insurance benefits, which references are entirely discounted by the Appeals Referee.

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits at Easton, effective July 4, 1982. As a result of that original claim, the claimant was disqualified for the receipt of unemployment insurance benefits pursuant to the provisions of Section 6(b) of the Maryland Unemployment Insurance Law. However, the claimant secured subsequent gainful employment as a farm laborer from July 30, 1982 until mid September 1982 and earned in excess of ten times his weekly benefit amount, and was laid off from that subsequent employment. Two or three weeks after that layoff, the claimant was referred to Allen Foods for available, suitable work. Allen Foods is a poultry processor, and the claimant had the requisite experience for such work, based upon his work experience with Country Pride.

The claimant reported as directed to the employer, Allen Foods, on October 7, 1982. He and others were interviewed. The employer was prepared to offer the claimant work that day. But, due to misunderstanding concerning the claimant's statement of a preference for the Receiving Department and the claimant additionally indicating that he would like to delay his response until after an interview with another prospective employer on the following day, the offer of employment was withdrawn from the claimant. Others were hired.

CONCLUSIONS OF LAW

The Appeals Referee believes and concludes that the employer, Allen Foods, was prepared to offer the claimant employment in its chicken Cut-up Department, on October 7, 1982. But, as the claimant had indicated a preference for work in the Receiving Department, and further indicated that he was first to be interviewed by another prospective employer on the following day, the offer of employment was withdrawn. It is thereupon concluded that the claimant failed, without good cause, to accept suitable work when offered within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law. But, in weighing the brevity or shortness of the claimant's period of unemployment between his work as a farm laborer and this referral to Allen Foods and a slightly lesser rate of pay than which he could earn in the Receiving Department or possibly with the prospective employer on the following day, it is concluded that the disqualification imposed, merits reduction. Clearly, work was available with Allen Foods which the claimant had experience and ability to perform. Such work was "suitable" within the meaning of the Maryland Unemployment Insurance Law. The claimant has not shown "good cause" for declining such suitable work in favor of an interview for tentative employment on the following day. Therefore, the disqualification as imposed by the Claims Examiner shall be reduced in accordance with these conclusions.

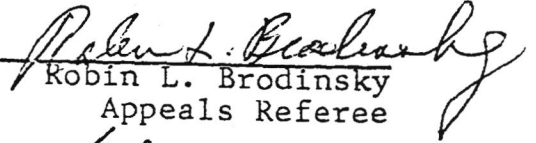
DECISION

It is held that the claimant failed, without good cause, to accept suitable work when offered within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning October 3, 1982 and the seven weeks immediately following, ending November 27, 1982.

The determination of the Claims Examiner is affirmed and modified accordingly.

This denial of unemployment insurance benefits for a specified

number of weeks will also result in ineligibility for Extended Benefits, and Federal Supplemental Compensation (FSC), unless the claimant has been employed after the date of the disqualification.


Robin L. Brodinsky
Appeals Referee

Date of hearing: Nov. 30, 1982

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(6910-Teeder)

Copies mailed to:
Claimant
Employer
Unemployment Insurance - Easton

