



DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383 - 5032

- DECISION -

BOARD OF APPEALS

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HAZEL A. WARNICK
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SEVERN E. LANIER
Appeals Counsel

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN
Secretary

DECISION NO.: 1101-BH-82

DATE: August 17, 1982

APPEAL NO.: 21268

S. S. NO.:

CLAIMANT: Douglas Lawson

EMPLOYER: Security Fence Supply

L. O. NO.: 7

APPELLANT: REMAND FROM COURT
REOPENED CASE
CLAIMANT APPEAL

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 SUPERIOR 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

Sept. 16, 1982

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Douglas Lawson - Claimant
Doris Walker - Atty.

Frank Hayward -
Foreman

EVIDENCE CONSIDERED

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearing. The Board has also considered all of the documentary evidence introduced into this case, as well as Employment Security Administration's documents in the appeal file.

FINDINGS OF FACT

The Claimant worked at Security Fence Supply from June 7, 1980 until December 12, 1980, when he was fired. The Claimant was rehired on January 5, 1981. Shortly after being rehired, the Claimant sustained a serious injury at work. On account of this injury, the Claimant remained unable to return to work until July 20, 1981.

The Employer had no particular policy regarding the method by which one returned to work after having been off due to an accident or illness. The Claimant was aware that a Mr. Long, the owner of the company, was the only person who had the authority to hire and fire. The Claimant, however, had obtained his job on one previous occasion through the intercession of a Mr. Jim Barr, who later served as his foreman. When the Claimant became physically able to work, he was encouraged by Mr. Barr to return to the job. The conversations in which this encouragement was offered took place away from the work premises. Mr. Barr did not have the authority himself to offer the Claimant work.

On July 20, 1981, the Claimant arrived at the workplace, carrying a note from his doctor which stated that he was able to return to work. The Claimant, however, did not visit the office of the Employer. Rather, he simply became engaged in a conversation with another worker who was an acquaintance of his. A foreman for the Employer observed the Claimant talking to this other employee, approached the two and advised the other employee that it was necessary to stop the conversation and begin work. This foreman approached the two persons only after they had been engaged in conversation for approximately twenty minutes. After that foreman left, the Claimant and the other employee continued the conversation for another ten minutes. After that additional ten minutes, the foreman approached the Claimant and the other employee, ordered the other employee to begin work and ordered the Claimant to leave the premises. The Claimant never contacted the Employer again about the possibility of returning to work until at least a month later, when he called the Employer's premises.

At the time the Claimant visited the Employer's premises on July 20, 1981, his intention was to begin work only if Mr. Barr was present. Mr. Barr, however, was on vacation that week.

CONCLUSIONS OF LAW

An intention to quit one's job can be manifested by actions as well as by words. The Board concludes that the Claimant's actions on July 20, 1981 constituted a voluntary quit within the meaning of Section 6(a) of the Law.

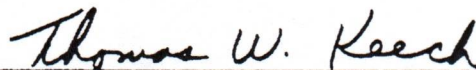
The Claimant visited his Employer's premises that day, but he never visited the Employer's office. The office would be the normal place where one would go in order to become reinstated on the payroll. The Employer's foreman, on the other hand, having noticed the Claimant on the premises in an apparently healthy condition, never inquired of the Claimant as to whether or not he was coming back to work that day or not. Although neither party did what one would expect a reasonable person to do in the circumstances, the Board concludes that, after an employee has been absent for a long period of time due to illness or injury, the burden is on the employee to renew the employment relationship. Since the Claimant did not take sufficient active steps to offer his services to the Employer on July 20, the Board concludes that he has not met his burden of re-contacting his Employer; therefore, he has abandoned his job.

Another factor which the Board has considered is the fact that the Claimant was not on the premises on July 20 for the purpose of making an unconditional offer to return to his former job. The Claimant was on the premises only for the purposes of offering his services if Mr. Barr was present to smooth the way for his re-entry. Mr. Barr happened to be on vacation that day. This type of conditional offer of returning to one's employment is not a sufficient action to discharge the burden on an employee to notify his Employer that he is ready to return to work. The Board, therefore, concludes that the Claimant's voluntary quit was without good cause within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law and that there are no serious, valid circumstances which might justify a lesser penalty in this case.

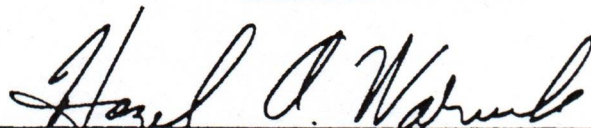
DECISION

The unemployment of the Claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. He is disqualified from the receipt of benefits from the week beginning July 19, 1981 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1400.00) and thereafter becomes unemployed through no fault of his own.

The decision of the Appeals Referee is modified as to the beginning date of the penalty only. That date has been changed to reflect to the date on which the Claimant's unemployment began.



Chairman


Associate Member

K:W

raf

DATE OF HEARING: August 3, 1982

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Doris Walker

UNEMPLOYMENT INSURANCE - COLLEGE PARK



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

BOARD OF APPEALS

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GARY SMITH
 Chief Hearings Officer

STATE OF MARYLAND
 HARRY HUGHES
 Governor
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 Secretary

- DECISION -

CLAIMANT: Douglas Lawson
 EMPLOYER: Security Fence Supply
 DATE: December 11, 1981
 APPEAL NO.: 21268
 S.S.NO.:
 L. O. NO: 7
 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

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON December 28, 1981

- APPEARANCES -

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER:

Represented by Mr.
 Frank Horward,
 Foreman

FINDINGS OF FACT

The claimant was originally employed by Security Fence Supply from June 7, 1980 until December 12, 1980 when the claimant was discharged for reporting to work under the influence of alcohol. However, the claimant was reinstated on January 5, 1981. At approximately noon, the claimant fell and broke his shoulder. The claimant was not released to return to work until July 20, 1981. However, the claimant did not report for work, and on July 31, 1981, the claimant went to the employer's place of business

to pick up his tools. The employer told the claimant that he was not authorized on the premises, and to leave the premises. The claimant, in order to obtain his job, should have reported to the office and make them aware of his return.

As of the time of the hearing, the claimant was unemployed.

COMMENTS

The claimant's failure to report to the employer's office after he was released from his doctor's more than ten days, was a voluntary quit, without good cause, within the meaning of the Maryland Unemployment Insurance Law, and the determination of the Claims Examiner will be affirmed.

There appearing no valid compelling circumstances for the claimant to quit this employment, only the maximum disqualification may be imposed.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6 (a) of the Maryland Unemployment Insurance Law. He is disqualified from the receipt of benefits from the week beginning January 4, 1981 and until becomes re-employed, earns at least ten times his weekly benefit amount (\$1400), and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is affirmed.


John G. Hennehan
APPEALS REFEREE

Date of Hearing - 10/2/81
cd/6255
(9511/Singleton)

COPIES MAILED TO:

Claimant

Employer

Unemployment Insurance - College Park