

 **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

- DECISION -

Claimant:
TINA M. DONATELLI

Employer:
EGLI & GOMPF INC

Decision No.: 2058-BR-93
Date: December 6, 1993
Appeal No.: 9317317
S.S. No.:
L.O. No.: 02
Appellant: Claimant

Issue: Whether the claimant left work voluntarily, without good cause within the meaning of Maryland Code, Labor and Employment Article, Title 8, Section 1001.

- NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how the appeal can be found in many public libraries, in the Maryland Rules of Procedure, Title 7, Chapter 200.

The period for filing an appeal expires: January 5, 1994

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner. The Board concludes that the claimant had good cause for quitting her job, within the meaning of LE, §8-1001.

Where a claimant's paychecks are repeatedly late and occasionally bounced, the Board found that the claimant had good cause for quitting. See, Allen v. Burton W. Sandier, P. A., 806-BR-85.

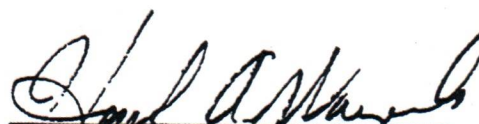
Similar reasoning applies here. The claimant's paychecks were repeatedly late and sometimes were only partial checks. This went on for a period of approximately two years. While the claimant did not individually complain to the employer about this, the employees as a group apparently did protest and the employer was aware of this.

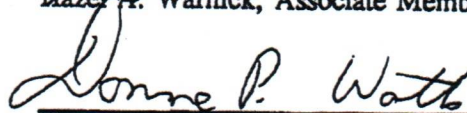
While the late paychecks were due to the employer's efforts not to discharge anyone, despite financial difficulties, the claimant was entitled to receive her full pay on time. The employer's inability to comply with this is good cause for the claimant's resignation.

DECISION

The claimant left work voluntarily, but for good cause, within the meaning of the Labor and Employment Article, Section 8-1001. No disqualification is imposed based on her separation from employment with Egli & Gompf, Inc.

The decision of the Hearing Examiner is reversed.


Hazel A. Warnick, Associate Member


Donna P. Watts, Associate Member

km

Copies mailed to:

TINA M. DONATELLI
EGLI & GOMPF INC
Local Office - #02

'The Hearing Examiner improperly cut off the claimant's testimony on this issue.

Note: Appeals filed by mail are considered timely on the date of the U.S. Postal Service postmark.

Date of hearing: September 14, 1993

IKE/Specialist ID: 02413

Seq. No.: 002

Copies mailed on September 17, 1993 to:

TINA M. DONATELLI
EGLI & GOMPF INC
LOCAL OFFICE #02

UNEMPLOYMENT INSURANCE APPEALS DECISION

TINA M. DONATELLI

Before the:

SSN " " " " " "
Claimant

**Maryland Department of Economic and
Employment Development
Appeals Division**
1100 North Eutaw Street
Room 511
Baltimore, MD 21201
(401) 333-5040

vs.

EGLI & GOMPF INC
--

Appeal Number: 9317317
Appellant: Claimant
Local Office: 02 / Glen Burnie

Employer/Agency

September 17, 1993

For the Claimant: PRESENT, TONY DONATELLI AND NICHOLAS DONATELLI

For the Employer: PRESENT, LOWELL WHITEHURST

For the Agency:

ISSUE(S)

Whether the claimant's separation from this employment was for a disqualifying reason within the meaning of the MD. Code Annotated, Labor and Employment Article, Title 8, Sections 1001 (Voluntary Quit for good cause), 1002 -1002.1 (Gross/Aggravated Misconduct connected with the work), or 1003 (Misconduct connected with the work).

FINDINGS OF FACT

Claimant began working for Employer in January 1988; her last day of work was July 15, 1993. He was employed full-time as a marketing coordinator and was compensated at the rate of \$10.12 per hour. Claimant voluntarily quit her employment because she was not being paid on time.

Employer's established procedure for paying employees is to issue a paycheck on every other Friday for the bi-weekly pay period ending the preceding Tuesday. Employer began to experience financial difficulties and, consequently, employees were not paid in a timely manner on numerous occasions. On occasion, the claimant had to wait up to seven days to receive her paycheck.

Although Claimant was dissatisfied 'with this situation, she chose to "put up with it" and did not discuss her concerns with Employer because she believed that it "would not make a difference. "

CONCLUSIONS OF LAW

The Maryland Code, Labor and Employment Article, Title 8, Section 1001(c) provides that an individual shall be disqualified from 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 facts established in the instant case do not demonstrate such good cause under the Law. However, Title 8, Section 1001(c), provides that a reduced disqualification may be imposed where the separation is precipitated by (1) a substantial cause connected with the conditions of employment or (2) another cause of such a necessitous or compelling nature that the claimant had no reasonable alternative but to leave the employment. The facts in this case demonstrate such valid circumstances, and therefore, a reduced disqualification is appropriate.


EVALUATION OF EVIDENCE

Although Claimant has demonstrated that there was a substantial cause directly attributable to the conditions of employment which prompted her to quit her job, she has failed to demonstrate that she took any steps to redress her concerns. Had she made efforts to rectify the matter with Employer before quitting her job, she might have demonstrated good cause for her voluntary separation from employment. However, because she failed to make such efforts, it is concluded that Claimant quit her job due to a valid circumstance.

DECISION

It is held that Claimant voluntarily left her employment, not for good cause, but rather due to a valid circumstance. She is disqualified from receiving unemployment insurance benefits for the five calendar weeks beginning July 18, 1993.

The determination of the Claims Examiner is modified.


K. C. Sippel, ESQ.
Hearing Examiner

Notice of Right of Further Appeal

Any party may request a further appeal either in person or by mail which may be filed in any local office of the Department of Economic and Employment Development, or with the Board of Appeals, Room 515, 1100 North Eutaw Street, Baltimore, MD 21201. Your appeal must be filed by October 4, 1993.