

DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK

Associate Member

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

- DECISION -

Claimant: Ulysses A. Bellamy, Jr.

Decision No. 421-BR-87

Date June 12, 1987

Appeal No., 8702525

S. S. No.:

Employer: Denton Police Department

L.O. No: 25

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 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.

July 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.

When a claimant has quit his job in order to avoid criminal charges arising from his employment-related actions, the Board has considered this to be a voluntary quit under Section 6(a) of the law, without good cause or valid circumstances. Welsh v. Springfield Hospital Center (808-BH-84), Traband v. Charles H. Hickey, Jr. School (991-BH-86).

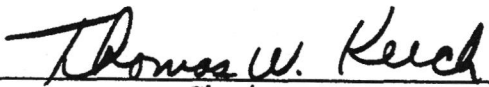
In this case, the claimant's resignation was part of a plea bargain of the criminal charges. The Board concludes that this was a voluntary quit and not a discharge and neither good cause nor valid circumstances are shown.

The Board notes that, if the case were considered as a discharge, the Board would have affirmed the finding of gross misconduct.

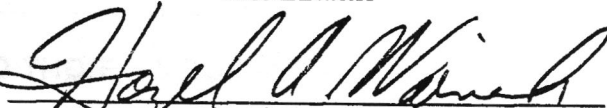
DECISION

The claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning February 15, 1987 and until he becomes reemployed, earns at least ten times his weekly benefit amount (\$1860.00) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:W

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Commissioners of Denton

UNEMPLOYMENT INSURANCE - EASTON



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5040

STATE OF MARYLAND
William Donald Schaefer
Governor

BOARD OF APPEALS

THOMAS W. KEECH
Chairman
HAZEL A. WARNICK
Associate Member
SEVERN E. LANIER
Appeals Counsel
MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Date: Mailed 4/27/87

Claimant: Ulysses A. Bellamy, Jr.

Appeal No.: 8702525

S. S. No.:

Employer: Denton Police Department

L.O. No.: 25

Appellant: EMPLOYER

Issue: Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, under 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 May 12, 1987

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present

Represented by
Edward Lee Walls,
Sr., Town Manager;
and Colonel William
C. Davis, Chief of
Police, Denton, MD

FINDINGS OF FACT

The claimant was employed by the Denton Police Department for approximately four years until February 19, 1987. He performed the services of a police officer and was earning \$6.85 an hour during the latter part of this employment.

The claimant was charged with the crimes of obstructing justice and making false statements to a police officer. By agreement of the parties to the criminal proceedings, the matter was placed on the court's "stet" docket on the condition that the claimant resigned from his job as a police officer in Denton. Accordingly, the claimant submitted his resignation.

I find as a fact on the basis of the preponderance of the evidence presented at this hearing including my appraisal of the credibility of the witnesses, that the claimant knowingly withheld information about a crime that he observed from the investigating police officer.

CONCLUSIONS OF LAW

The Findings of Fact at an administrative hearing on an unemployment insurance benefit claim are based upon the preponderance of the evidence presented at the hearing. This means that the evidence presented indicates to the Hearing Examiner that the fact that was found was more likely to have occurred than not to have occurred. I reject specifically the claimant's denial that he had misrepresented information that he gave to an investigating officer on the basis that the claimant's testimony in this respect did not appear to be credible and was not convincing.

Section 6 (a) of the Maryland Unemployment Insurance Law requires the denial of benefits when an individual leaves work voluntarily. In the instant case, the claimant resigned, but this resignation was involuntary and resulted from an agreement that he resign in exchange for the placing of criminal charges against on the "stet" docket. Therefore, it is held that the claimant was not subject to disqualification under the provisions of Section 6 (a) of the Maryland. Unemployment Insurance Law.

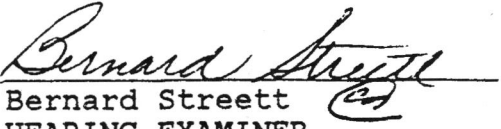
Section 6 (b) of the Maryland Unemployment Insurance Law provides that benefits shall be denied when an individual is discharged for gross misconduct connected with his work. The term "gross misconduct" includes conduct of an employee which is a deliberate and willful disregard of standards of behavior which his employer has a right to expect, showing a gross indifference to the employer's interest.

The claimant's forced resignation was tantamount to a discharge by the employer. The cause for discharge as reflected by the Findings of Fact above was a sufficiently serious breach of the claimant's obligations to his employer to constitute gross misconduct within the meaning of that term as defined above.

DECISION

The claimant was discharged for gross misconduct connected with his work within the meaning of Section 6 (b) of the Law. Benefits are denied for the week beginning February 15, 1987 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1860), and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is reversed.


Bernard Streett
HEARING EXAMINER

DATE OF HEARING - 4/1/87

cd

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Claimant
Employer
Unemployment Insurance - Easton - (Pre-MABS)

Commissioners of Denton

Denton, Maryland 21629