



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND

HARRY HUGHES
Governor

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383.5032

THOMAS W KEECH
Chairman

HAZEL A WARNICK
MAURICE E DILL
Associate Members

SEVERNE E LANIER
Appeals Counsel

-DECISION-

DECISION NO.: 631-BR-84

DATE: July 9, 1984

APPEAL NO.: 01767-EP

S.S.NO.:

CLAIMANT: Karen K. Toms

EMPLOYER Plantronics

LO. NO.: 4

APPELLANT CLAIMANT

ISSUE Whether the claimant failed, without good cause, to apply for available, suitable work within the meaning of §6(d) of the Law; whether the claimant refused an offer of suitable "work within the meaning of §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 August 8, 1984

-APPEARANCE -

FOR THE CLAIMANT

FOR THE EMPLOYER

REVIEW ON THE RECORD

Upon review of the record of this case, the Board of Appeals reverses the decision of the Appeals Referee and reinstates the decision of the Claims Examiner.

The claimant formerly performed services for the employer as an executive secretary, earning \$7.70 an hour. She was laid off on August 12, 1983. She then applied for unemployment insurance benefits.

In January of 1984, the employer called the claimant and asked if she wished to be considered for a different position, known as Departmental Secretary. The salary range for this position was from \$6.00 per hour up to \$8.00 per hour. The claimant was under the impression that the position paid \$6.00 per hour and that it was somewhat lower in responsibility than her previous position. The claimant was not actually offered the job but was merely invited to interview for the job. The claimant declined this interview.

As the Board stated in the Adams v. Cambridge Wire Cloth case (264-BH-82, the penalty to be imposed for refusing suitable work under §6(d) of the law may be activated whether the work is offered to the claimant by the agency itself or by a private employer. Another disqualification possible under §6(d), however, is a disqualification for refusing to apply for suitable work. This disqualification, unlike the disqualification for refusing suitable work, may be activated only by an agency referral to apply for suitable work.

The Board is unaware of why this distinction is made in the law. The legislature may have decided that because of problems of proof, it is fairer to restrict this penalty to actual offers of jobs by private employers. Another possible reason behind this provision may be an intention to encourage employers to register their job openings with the agency. In any case, the law clearly does make this distinction, and the Board must honor it.

The claimant, therefore, did not refuse an offer of suitable work within the meaning of §6(d) of the law. She also did not refuse to apply for available, suitable work when so directed by the agency. No disqualification under §6(d) is appropriate in this case.

The Board notes that this case does raise serious questions about the claimant's active search for work within the meaning of §4(c) of the law, but that issue is not before the Board and is subject to review by the local office. The Board also notes that, had the job opening been registered with the agency's Employment Service, a referral of the claimant by that Employment Service to apply for the job would probably have resulted in a disqualification under §6(d) of the law.

DECISION

The claimant did not refuse an offer of suitable work within the meaning of §6(d) of the law, nor did she refuse to apply for suitable work when so directed by the Secretary within the meaning of §6(d) of the law. No disqualification is imposed under that section of the law.

The decision of the Appeals Referee is reversed. The decision of the Claims Examiner is reinstated.

Thomas W. Keech

Chairman

Harold A. Warrick

Associate Member

K:W
kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - HAGERSTOWN



STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

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

BOARD OF APPEALS
 THOMAS W. KEECH
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 Appeals Counsel
 MARK R. WOLF
 Administrative
 Hearings Examiner

- DECISION -

CLAIMANT: Karen K. Toms

DATE: Apr. 23, 1984

APPEAL NO.: 01767-EP

S. S. NO.:

EMPLOYER: Plantronics

L. O. NO.: 04

APPELLANT: Employer

ISSUE:

Whether the claimant failed, without good cause, to apply for available, suitable work 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 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON May 8, 1984

-APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Present

Frances Sparks-
 Personnel Manager

EVALUATION OF THE EVIDENCE

The employer alleged that the claimant was telephoned on January 2, 1984 and had been informed that there was a job available to work for the vice president of data systems marketing. The employer alleged that the claimant was informed that the position

was a similar position to the one the claimant had when she worked for Plantronics and the salary was in the range of from \$6.02 per hour to \$8.45 per hour. The hours of work were to be from 8 a.m. to 5 p.m.

The claimant alleged that she was not interested in the job offer made to her on January 2, 1984 because she was under some understanding that the job was to pay her approximately \$6.00 an hour and the claimant believed that this job was a downgrade and not a reasonable job offer compared to her previous employment at Plantronics.

FINDINGS OF FACT

The claimant had been employed by Plantronics from August 31, 1981 to August 12, 1983. The claimant had been employed as an Executive Secretary. She earned \$7.70 per hour.

On January 2, 1984, the claimant had been informed by Plantronics of another position in a secretarial capacity working for the vice president of data systems marketing. The claimant had previously been laid off her job at Plantronics in August 1983, working as an Executive Secretary for the vice president of engineering. The claimant refused to discuss in further detail the job that was offered by Plantronics on January 2, 1984, because the claimant was under some understanding that the job was to only pay about \$6.00 per hour and the job was to be different job duties compared to her previous position. The claimant failed to set up a job interview with Plantronics to discuss in detail the rate of pay and also to discuss the job duties.

The claimant did obtain a position on March 1, 1984 to March 30, 1984 as a Secretary, earning \$6.00 per hour. The claimant did take this job for a period of time because the claimant was able to ride to work with her husband, which cut down on costs.

CONCLUSIONS OF LAW

The claimant was informed by Plantronics on January 2, 1984, that there was a position open at the company for a secretary, working for the vice president of data systems marketing. The job had a salary range of \$6.02 an hour to \$8.45 per hour. The job was to have similar job duties as her previous job that the claimant had when she worked for Plantronics. Since the claimant had been out of work for close to five months when she was told of a job opening at Plantronics to be a secretary for the vice

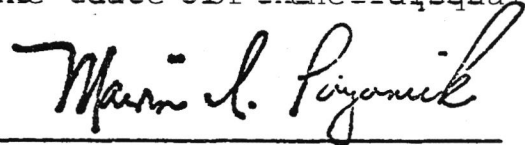
President of data systems marketing, it will be held that the claimant failed to apply for available, suitable work within the meaning of Section 6(d) of the Law. The claimant failed to set up a job interview in person to get firm information with regard to the rate of pay and the duties which would be required on the job that was explained to the claimant on January 2, 1984. Therefore, the determination of the Claims Examiner that the claimant was not disqualified under Section 6(d) of the Law will be reversed.

DECISION

It is held that the claimant failed to apply for available, suitable work within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning January 1, 1985 and the four weeks immediately following.

The determination of the Claims Examiner is reversed.

The 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.



Marvin I. Pazornick
APPEALS REFEREE

Date of hearing: April 5, 1984

Cassette: 2365 B

hf (F. Wolford)

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Claimant
Employer
Unemployment Insurance-Hagerstown