



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: PATRICIA J. HOLMES	Decision No.: 01175-BR-94
Employer: DEPT OF THE ARMY	Date: April 14, 1994
	Appeal No.: 9326097
	S.S. No.:
	L.O. No.: 50
	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 to file 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: May 14, 1994

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals adopts the findings of fact of the Hearing Examiner. However the Board makes the following additional findings of fact and reverses the decision of the Hearing Examiner.

The claimant was hired under the Military Spouse Preferential Priority Placement Program at Fort Detrick. Under this program if the claimant's spouse either retires or transfers, the claimant loses her position. The claimant could not legally stay in this position once her husband was transferred.

Section 8-1001 of the Labor and Employment Article provides that an individual shall be disqualified from the receipt of benefits where their unemployment is due to leaving work voluntarily, without good cause arising from or connected with the conditions of employment or actions of the employer or without serious, valid circumstances. A circumstance for voluntarily leaving work is valid if it is a substantial cause that is directly attributable to, arising from, or connected with conditions of employment or actions of the employing unit or of such necessitous or compelling nature that the individual had no reasonable alternative other than leaving the employment.

The claimant did not voluntarily quit her employment. The claimant was barred from remaining in the position once her spouse was transferred.

Since the claimant did not quit her position, this case must be looked at as a discharge. In a case of discharge the burden is on the employer to show that the claimant was discharged for either gross misconduct or misconduct within the meaning of §§8-1002 or 8-1003 of the Labor and Employment Article.

Section 8-1002 of the Labor and Employment Article defines gross misconduct as conduct of an employee that is a deliberate and willful disregard of standards of behavior that an employing unit rightfully expects and that shows gross indifference to the interests of the employing unit or repeated violations of employment rules that prove a regular and wanton disregard of the employee's obligations.

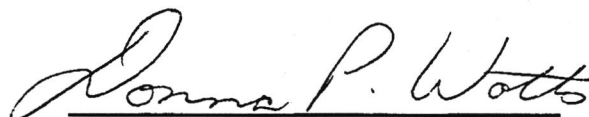
The term "misconduct" as used in the statute means a transgression of some established rule or policy of the employer, the commission of a forbidden act, a dereliction from duty, or a course of wrongful conduct committed by an employee within the scope of his employment relationship, during hours of employment or on the employer's premises within the meaning of Section 8-1003 of the Labor and Employment Article. (See, Rogers v. Radio Shack, 271 Md. 126, 314 A.2d 113).

The employer has failed to meet its burden in this case. The only reason for the claimant's discharge was the fact that her spouse had been transferred.

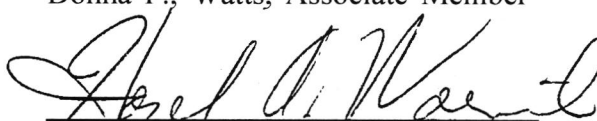
DECISION

The claimant was discharged, but not for any misconduct within the meaning of either §8-1002 or §8-1003 of the Labor and Employment Article. No disqualification from the receipt of benefits shall be imposed under either of these sections of the law due to her separation from employment with this employer.

The decision of the Hearing Examiner is reversed.



Donna P., Watts, Associate Member



Hazel A. Warnick, Chairperson

km

Copies mailed to:

PATRICIA J. HOLMES
DEPT OF THE ARMY
Local Office - #50

UNEMPLOYMENT INSURANCE APPEALS DECISION

PATRICIA J. HOLMES

Before the:

SSN #

Claimant

vs.

DEPT OF THE ARMY

Employer/Agency

**Maryland Department of Economic and
Employment Development**

Appeals Division

1100 North Eutaw Street

Room 511

Baltimore, MD 21201

(410) 333-5040

Appeal Number: 9326097

Appellant: Claimant

Local Office: 50 / Interstate

January 10, 1994

For the Claimant: PRESENT

For the Employer:

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

The claimant worked for the Army at Fort Detrick, Maryland, from November 29, 1992 through September 3, 1993 as a fulltime contract clerk and made \$12.00 an hour.

Her husband who was a member of the armed forces was transferred from Fort Detrick, Maryland to Texas and the claimant left her position in order to accompany her husband to Texas. No other reason was given for her quitting her position other than to accompany her husband to Texas from the state of Maryland.

CONCLUSIONS OF LAW

The Maryland Code, Labor and Employment Article, Title 8, Section 1001 (d), in pertinent part, provides that in cases where the separation occurs because the claimant (1) leaves to accompany a spouse to a new location, or (2) leaves to enter or return to school, or (3) leaves to enter into self-employment, such claimant shall be mandatorily disqualified from benefits for the week of his/her separation and until such time as he/she becomes employed, earns at least 15 times his/her weekly benefit amount, and thereafter becomes involuntarily unemployed.

EVALUATION OF EVIDENCE

In the instant case, the claimant has the burden of proving either good cause or valid circumstances for quitting her position. In this case, the claimant admitted the only reason she left her job was to accompany her spouse who was in the military to Texas from the state of Maryland. Therefore, it is determined that according to the Maryland Law, the claimant is not entitled to benefits when she leaves solely for the reason of accompanying her spouse to another location.

DECISION

It is held that the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of the Maryland Unemployment Insurance Law, Title 8, Section 1001. Benefits are denied from the week beginning August 29, 1993 and until the claimant becomes re-employed, earns at least fifteen times her weekly benefit amount in covered wages and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.

R. A. Breschi, ESQ.
Hearing Examiner

Notice of Right to Petition for Review

Any party may request a review 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 January 25, 1994

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

Date of hearing: December 29, 1993

DW/Specialist ID: 50507

Seq. No. :002

Copies mailed on January 10, 1994 to:

PATRICIA J. HOLMES
DEPT OF THE ARMY
LOCAL OFFICE #50