

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032

Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

Decision No.:	1278-BR-91
Date:	October 18, 1991
Claimant: John Owens	Appeal No.: 9108875
	S. S. No.:
Employer: Hill's Capitol Security, Inc. ATTN: Mitchell Paul, Counsel	L. O. No.: 43
	Appellant: CLAIMANT
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 8-1001 of the Labor and Employment Article.

— 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, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES

November 17, 1991

— 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. In making this decision, the Board has relied on the testimony and evidence before the Hearing Examiner alone. The claimant's proffered additional documentation is rejected.

The claimant was last employed as a temporary project manager at a pay rate of about \$23,000 annually. Prior to that assignment, he had been a zone manager at an undisclosed salary. On or about March 25, 1991, the claimant was notified that he was being reassigned to be a patrol supervisor.

The claimant had occupied this position before. He assumed that it was a demotion because he had been promoted from that position to zone manager. In addition, the position paid substantially less than the position the claimant was holding at the time.

Part of the reason that the claimant was assigned this new position was his employer's general dissatisfaction with the way the claimant was performing his current duties. The testimony on this issue was extremely vague, however, and the employer has not shown that the claimant was either committing misconduct at his last position, or even that he was incapable of performing the duties of that position.

The Hearing Examiner disqualified the claimant because the claimant "assumed" that his reassignment was a demotion, and because he did not question higher management about the salary of the new position. The Board disagrees with the inferences and conclusions drawn by the Hearing Examiner. The claimant was reasonable in deciding that this reassignment was a demotion. The claimant had reason to know what the duties were, since he had performed those duties before. There was no reason to think that his salary would not be lowered to the salary which the new position commanded. At the hearing, the employer did not deny that the salary would be lower, and, in fact, the employer's witness stated that he was going to recommend the salary be lowered. In this context, it is inappropriate to find that the claimant did not have good cause simply because he did not complain about a change that had already been imposed on him, a change whose consequences were already quite clear. It is especially inappropriate to disqualify the claimant in a case like this, where the employer has virtually admitted that such a complaint would be without effect.

A demotion with a reduction in pay is a serious detrimental change in the employment relationship, justifying a finding of good cause within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. Without any findings that the claimant's own detrimental conduct or inability caused the demotion, a finding of good cause will be made.

DECISION

The claimant voluntarily left his employment, but for good cause within the meaning of Section 8-1001 of the Labor and Employment Article. No-disqualification is imposed based upon his separation from Hill's Capitol Security, Inc. The claimant should contact the local-office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.

Thomas W. Keech

Chairman

Donna P. Watts

Associate Member

K:DW

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Vanita Taylor, Esq.

UNEMPLOYMENT INSURANCE - WHEATON

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— D E C I S I O N —

Claimant:	John E. Owens	Date:	Mailed: 7/19/91
		Appeal No.:	9108875
		S. S. No.:	
Employer:	Hill's Capitol Security, Inc.	L. O. No.:	43
		Appellant:	Employer

Issue: Whether the claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

8/5/91

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON

— A P P E A R A N C E S —

FOR THE CLAIMANT:

Claimant-Present
Vanita Taylor, Esq.

FOR THE EMPLOYER:

John Hagood
General Manager
Mitchell Paul, Esq.
General Counsel

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits at Wheaton, effective April 14, 1991.

The claimant had been employed by Hills Capitol Security, Inc. for approximately three years. His last position was temporary project manager at a pay rate of \$22,000 annually. Prior to the last assignment, the claimant had been a zone manager.

There came a time shortly after John Hagood became general manager that the employer became dissatisfied with the claimant's overall job performance. On or about March 25, 1991, the claimant was notified that he was being reassigned to a patrol position, but where he would be supervising a number of commercial accounts.

The claimant assumed that this reassignment was a demotion, because he knew that the salary and responsibilities of the new assignment were considerably less than that which he commanded and held as project manager.

The claimant considered such a reassignment and demotion as being unacceptable and unfair in view of his years of faithful and extremely good performance as a security supervisor.

The claimant took no steps to discuss with the general manager whether there would be any change in his compensation, hours of work, or the nature of his continued responsibilities as a security officer employed by Hill's Capital Security, Inc.

Instead, the claimant submitted a letter of resignation addressed to Brandon T. Hill, CEO of Hill's Capitol Security, stating that he felt that it was in his best interest to resign his position.

Since the claimant did not give the general manager an opportunity to discuss the claimant's continued employment with the employer, his continuing compensation, hours of work, and responsibilities and the new assignment, the employer did not have an opportunity to discuss compensation in view of his three year tenure with the employer.

CONCLUSIONS OF LAW

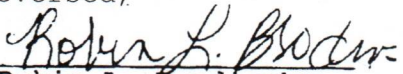
Clearly, the employer was removing the claimant from his responsibilities as a temporary project manager, for the reason that not only was it a temporary assignment, but that the general manager was somewhat dissatisfied with the claimant's overall performance. Such a reassignment might be considered a demotion, if there were in fact a stated reduction in pay or change in the hours of work. But, the employer was never given an opportunity to discuss the claimant's continuing compensation or hours of work. Instead, the employee submitted a resignation, at which

point there was no reasonable need to discuss these matters. Accordingly, I conclude that while the employer may have intended to demote the claimant and to reduce his compensation, such never took effect. Accordingly, I conclude that being reassigned from one position to another in the same firm or organization doing the same kind of work the individual was doing does not constitute a discharge from employment. Based upon the claimant's voluntary tender of his resignation, I conclude that the claimant left his employment voluntarily "without good cause", within the meaning of the Law. At the time the claimant tendered his resignation, there was no cause attributable to the conditions of employment or actions of the employer which might be considered "good cause". Accordingly, I concluded that the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of the Maryland Unemployment Insurance Law, and the maximum disqualification as required by Statute must be imposed.

DECISION

The claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning March 17, 1991 and until the claimant becomes reemployed, and earns at least ten times his weekly benefit amount (\$2,150) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is reversed.


Robin L. Brodinsky
Hearing Examiner

Date of hearing: 7/5/91
ah/Cassette: 6598B
Specialist ID: 43726
Copies mailed on 7/15/91 to:

Claimant
Employer
Unemployment Insurance - Wheaton - MABS

Vanita Taylor