

- DECISION -

Claimant:
WILLIE A. STYRON

Decision No.: 01738-BR-95

Date: June 6, 1995

Appeal No. : 9506489

Employer:
BALTIMORE INTERNATIONAL WRHSE
CO INC

S.S. No.:

L.O. No.: 45

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: July 6, 1995

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 but reaches a different conclusion of law.

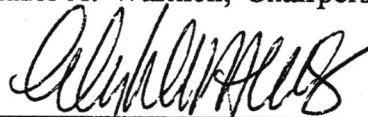
“Due to leaving work voluntarily” has a plain, definite, and sensible meaning free of ambiguity. It expresses a clear legislative intent that to disqualify a claimant from benefits, the evidence must establish that the claimant, by his or her own choice, intentionally, of his or her own free will, terminated employment see Allen v. Core Target City Youth Program 275MD.69 338A.2d 237(1975). The Board finds in this case that the claimant did not freely chose to terminate his employment but was discharged because of a mandatory requirement in the law connected with the claimant medical condition. The Board notes that the claimants’ medical condition was not the result of any action on behalf of the claimant but due to a disease which the claimant could not have contemplated or had control of in any manner; therefore, the claimant did not “constructively quit” his job. The Board finds that the claimant was discharged but not for misconduct.

DECISION

The claimant was discharged, but not for gross misconduct or misconduct, connected with the work, within the meaning of §8-1002 or 8-1003 of the Labor and Employment Article. No disqualification is imposed based upon his separation from employment with Baltimore International Warehouse Co. Inc.

The decision of the Hearing Examiner is reversed.

Hazel A. Warnick, Chairperson



Clayton A. Mitchell, Sr., Associate Member

kjk

Copies mailed to:

WILLIE A. STYRON
BALTIMORE INTERNATIONAL WRHSE
Local Office - #45

UNEMPLOYMENT INSURANCE APPEALS DECISION

WILLIE A. STYRON

Before the:

037

**Maryland Department of Economic and
Employment Development**

Appeals Division

1100 North Eutaw Street

Room 511

Baltimore, MD 21201

(410) 767-2421

SSN :

Claimant

vs.

BALTIMORE INTERNATIONAL WRHSE
CO INC

Appeal Number: 9506489

Appellant: Claimant

Local Office: 45 / Northwest

Employer/Agency

May 10, 1995

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 separated from employment on or about March 17, 1995 because he notified the employer that he was taking insulin. The Maryland State transportation law requires that a person is not permitted to take insulin as a truck driver. The claimant was a tractor trailer truck driver for Baltimore International Warehouse Co. Inc. Since the claimant can no longer perform his work as a truck driver, he was separated from employment.

The claimant admits freely in the this testimony the employer did nothing to cause the claimant's separation from employment. The claimant provided valid medical documentation showing that he is not permitted to work as a tractor trailer driver because of his diabetes and hypertension. The claimant has been reclassified as an industrial or commercial cleaner.

CONCLUSIONS OF LAW

Md. Code Ann., Labor & Emp., Section 8-1001 (Supp. 1994) provides that an individual shall be disqualified for benefits where 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 valid circumstances. A circumstance is valid only if it is "(i) a substantial cause that is directly attributable to, arising from, or connected with conditions of employment or actions of the employing unit; or (ii) (a cause) of such necessitous or compelling nature that the individual has no reasonable alternative other than leaving the employment." Board of Educ. v. Paynter, 303 Md. 22, 491 A.2d 1186 (1985).

EVALUATION OF EVIDENCE

In the instant case, the claimant has failed to show good cause attributable to the employer for his separation from employment. However, the claimant has shown valid medical documentation to verify his valid circumstances to separate from employment. The claimant has shown that he can legally no longer perform the work as a tractor trailer driver because he is taking insulin. This hearing examiner finds that the claimant's separation warrants a circumstance of valid circumstances.

DECISION

IT IS HELD THAT the claimant's unemployment was due to leaving work voluntarily without good cause but with valid circumstances within the meaning of Md. Code Ann., Labor & Emp., Section 8-1001 (Supp. 1994). The claimant is disqualified for the week beginning March 12, 1995 and for the four weeks immediately following.

The determination of the claims examiner is affirmed.



K. M. O'Neill, 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 May 25, 1995.

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

Date of hearing: April 27, 1995

RV/Specialist ID: 45533

Seq. No.: 004

Copies mailed on May 10, 1995 to:

WILLIE A. STYRON
BALTIMORE INTERNATIONAL WRHSE
LOCAL OFFICE #45