

 **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

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

— DECISION —

Decision No.:	1864-BR-92
Date:	October 21, 1992
Appeal No.:	9213291
S. S. No.:	
Claimant:	Daniel Taylor
Employer:	Metrex Excavating, Inc.
Her O. No.:	50
Appellant:	CLAIMANT

Issue: Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §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 MAYBE 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 20, 1992

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals modifies the decision of the Hearing Examiner.

The claimant's customary hours of work were substantially reduced, resulting in a substantial decrease in his income. The claimant was in the state only for purposes of employment, and could not afford to stay with the reduced amount of hours. Since the claimant was not promised any specific hours, he does not have "good cause" for leaving, but this change does amount to a "valid circumstance."

DECISION

The claimant left work voluntarily, without good cause, but for valid circumstances, within the meaning of §8-1001 of the Labor and Employment Article. He is disqualified from receiving benefits from the week beginning January 26, 1992 and the four weeks immediately following.

The decision of the Hearing Examiner is modified.

Thomas W. Keech
Chairman

Donna P. Watts
Associate Member

K:DW

kbm

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CLAIMANT

EMPLOYER

OUT-OF-STATE CLAIMS

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark W. Wasserman, Secretary

Gary W. Wiedel, Administrator
Louis Wm. Steinwedel, Chief Hearing Examiner

Room 511
1100 North Eutaw Street
Baltimore, Maryland 21201

— DECISION —

Claimant:	Daniel E. Tavlör	Date:	July 20, 1992
		Appeal No.:	9213291
		S. S. No.:	
Employer:	Metrex Excavating, Inc.	L. O. No.:	50
		Appellant:	Claimant

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of MD Code, Labor and Employment Article, Title 8, Section 1001.

— NOTICE OF RIGHT TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON

August 4, 1992

NOTE: APPEALS FILED BY MAIL INCLUDING SELF-METERED MAIL ARE CONSIDERED FILED ON THE DATE OF THE US. POSTAL SERVICE POSTMARK.

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present

Ed Burrowns, Jr, -
Dispatcher

FINDINGS OF FACT

The claimant worked for the employer from August 9, 1988 through January 26, 1992. He was employed as an equipment operator and earned \$11.50 per hour full-time.

The claimant voluntarily quit his employment on or about January 26, 1992 because of a reduction in hours and the amount of money he was earning.

The credible evidence indicates that the claimant's work slowed down in November and December, 1991 and January, 1992.

The employer concurs that their company was almost recession proof until November, 1991. At that point, work slowed down considerably. Many other employees were laid off in December, 1991 and early January, 1992. Since the work was getting slow and the claimant was receiving less hours, he had a conversation with his immediate supervisor to find out if he would be laid off. The supervisor did not know whether he would be laid off or how many hours he would be able to work. The claimant is from Alabama and was living in Maryland solely for employment. Since the employment was not that strong and he was not sure how many hours of work a week he would be able to get, he decided to return to Alabama.

The claimant was well aware of the nature of the construction business. The credible evidence indicates that during the month of January the claimant received 24 hours for the first week, 43 hours for the second week, 33 hours for the third week and 36 hours for the fourth week. In light of the fact that January is perhaps one of the slowest months in the construction trade this is not a bad hourly sum. In addition when the weather is good, the employer and the claimant can work more than 40 hours per week.

CONCLUSIONS OF LAW

The Maryland Code, Labor and Employment Article, Title 8, Section 1001 provides that an individual shall be disqualified for benefits where his unemployment is due to leaving work voluntarily, without good cause arising from or connected with the conditions of employment or actions of the employer. The preponderance of the credible evidence in the record will support a conclusion that the claimant voluntarily separated from employment, without good cause, within the meaning of Title 8, Section 1001.

In the instant case, the claimant voluntarily quit his employment because he perceived that work was getting slow. The claimant was right in that work was decreasing but the claimant was never told by the employer that he would be laid off. The claimant did receive a reduction in hours but nothing that atypical of the construction industry in the winter months. The claimant

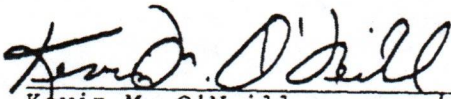
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averaged 34 hours of work per week during the month of January, 1992. The claimant has not shown good cause attributable to the employer since he was receiving almost 34 hours of work per week from the employer in the month of January. The claimant also has not shown valid circumstances since a slight reduction of hours during the winter months for a construction trade is not abnormal.

DECISION

The claimant voluntarily quit his employment, without good cause, within the meaning of the Annotated Code of Maryland, Labor and Employment Article, Title 8, Section 1001 of the Law. Benefits are denied from the week beginning January 26, 1992 and until the claimant becomes reemployed and earns at least ten times his weekly benefit amount (\$2230) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Specialist is affirmed.


Kevin M. O'Neill
Hearing Examiner *KMO*

Date of Hearing: July 14, 1992
ras\Specialist ID: 50524
Cassette in File

Copies mailed on July 20, 1992 to:

Claimant
Employer
Out of State Claims (MABS)