

 **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.:	192-BR-92
Date:	January 30, 1992
Claimant: Charisse Stewart	Appeal No: 9114731
	S. S. No.:
Employer: United Parcel Service c/o The Frick Company ATTN: Joan Austin	L O. No.: 1
	Appellant: EMPLOYER
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 8-1001 of the Labor and Employment Article.

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— 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

February 29, 1992

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— 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.

The claimant worked for about six years for this employer. In December of 1990, she was working as a clerk. She was fired at that time due to her confrontation with a co-worker, but the union obtained her reinstatement.

The claimant was not reinstated to her exact original position. Instead, she was assigned to load trucks on the loading dock. (There was no testimony in the record as to whether this was an inside or an outside job, and no testimony that the claimant was incapable of performing this new job.) The claimant disliked this new position.

The claimant applied for a promotion as a driver. She was given this promotion on a probationary basis, but she failed to meet production standards. On July 10, she was told that she had failed her probation at this position, but that she should return to her regular job on the loading dock. The claimant did not report for duty at that position on July 10, 11, or 12, 1991. She did not notify the company that she was not coming in, nor did she even notify her union. She simply went home and stayed there until she received a letter mailed by the company on July 18th which said that she was terminated.

The Board concludes that the claimant voluntarily quit her job by abandoning it. The Board also concludes that the claimant had neither good cause nor valid circumstances for quitting. Dissatisfaction with a demotion is not good cause or valid circumstances where the reason for the demotion is poor work performance. In this case, there was not even a demotion; the claimant simply failed in her attempt to be promoted. The burden is on the claimant to show that the employer's action (in failing to promote her) was unreasonable. The claimant has not met this burden. Although the claimant disliked her regular job, there is no evidence that there was anything wrong with it. In addition, this was the position which the claimant's union obtained for her, apparently through negotiation, after she had been fired from a previous position.

#### DECISION

The claimant left work voluntarily, without good cause, within the meaning of Section 8-1001 of the Labor and Employment Article. She is disqualified from receiving benefits from the week beginning July 7, 1991 and until she becomes re-employed, earns at least ten times her weekly benefit amount (\$1,800), and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is reversed.

*Thomas W. Keech*

Chairman

*Loyd L. Marick*

Associate Member

K:HW

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE



# 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*

### — DECISION —

Claimant:	Charisse D. Stewart	Date:	Mailed: 3/30/91
		Appeal No.:	9114731
		S. S. No.:	
Employer:	United Parcel Service c/o James E. Frick, Inc.	LO. No.:	1
		Appellant:	Claimant

Issue: Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law.

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### — 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.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON 10/15/91

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### — APPEARANCES —

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

George Dahlke,  
Human Resources  
Manager

### FINDINGS OF FACT

The claimant was employed by the United Parcel Services on September 6, 1985. At the time of her separation from employment on July 10, 1991, she earned \$12.04 an hour.

For the first five years of her employment, the claimant worked as a Clerk. On June 10, 1991, she obtained a position as a Delivery Driver. The employer's rules provide that employees who transfer to a new position be placed on a 30-day probationary period.

On July 10, 1991, the claimant was told that she did not satisfactorily complete her probationary period and that she was being returned to her position as a Clerk. The claimant was told to report to her next scheduled shift. The claimant failed to report for her next scheduled shift and was absent two days without notifying the employer. She intended to return to work after two days but had already received a termination letter from the employer pursuant to its rule that an employee who is absent for three days without notifying the employer is deemed to have resigned.

The claimant did not want to return to the job that she had left because she had been terminated in December 1990, and reinstated after filing an appeal of the termination. However, when the claimant was reinstated, she was not returned to her job as a clerk. Rather, she was placed on the loading dock as a package handler. The claimant's employment as a Clerk has been inside of the building, whereas, her employment on the loading dock was outside work.

#### CONCLUSIONS OF LAW

Article 95A, Section 6(a) provides that an individual shall be disqualified from 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 facts established in the instant case do not demonstrate such good cause under the Law. However, Section 6(a) provides that a reduced disqualification may be imposed where the separation is precipitated by (1) a substantial cause connected with the conditions of employment or (2) another cause of such a necessitous or compelling nature that the claimant had no reasonable alternative but to leave the employment. The facts in this case demonstrate such valid circumstances, and therefore, a reduced disqualification is appropriate.

The claimant resigned her employment after being notified that she did not satisfactorily complete her probationary period as a Driver and had to return to her job on the loading dock. The claimant's employment up to the time of her termination was inside performing clerical duties. After she was terminated and

reinstated after filing an appeal she was placed on the loading dock, which was outside work. This action by the employer warrants a conclusion that the claimant was being retaliated against for appealing her termination. Therefore, the claimants refusal to return to the loading dock position amounts to a substantial reason connected with the work, supporting a mitigated penalty.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, but due to valid circumstances within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning July 7, 1991 and the nine weeks immediately following.

The determination of the Claims Examiner is reversed.



Sarah Moreland  
Hearing Examiner

Date of hearing: 9/23/91  
rc/Cassette No: 9496  
Specialist ID: 01890  
Copies mailed on 9/30/91 to:

Claimant  
Employer  
Unemployment Insurance - Baltimore - MABS