



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.:	493-BR-90
	Date:	May 22, 1990
Claimant: John Leitzel	Appeal No.:	8915645
	S. S. No.:	
Employer: Select Temporary Services	L.O. No.:	40
	Appellant	CLAIMANT

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law; whether the claimant was discharged for gross misconduct or misconduct, connected with his work, within the meaning of Section 6(b) or 6(c) of the law.

—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.

June 21, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— 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, who had never worked for a temporary agency before, signed on with Select Temporary Services. He received his first employment on October 20, 1989. He worked at a bank in Columbia, Maryland. This employment came to an end on October 26, 1989, when the claimant was informed by the bank that he was no longer wanted on the job due to alleged productivity problems. No evidence has been presented that the claimant committed any type of misconduct with respect to that job.

The claimant reported to Select Temporary Services on October 27 that he had been let go by the bank. On October 30, 1989, Select Temporary Services offered the claimant an assignment at another bank, which he refused. The claimant refused this because he was upset with the fact that he had been let go by the first bank without being given a full explanation. Unexplained commencements and cessations of work, however, are not uncommon in the temporary services industry.

The Board has ruled many times in the past that, in most cases, a claimant who works for a temporary agency does not voluntarily quit his job when he refuses an assignment of work. Hannas v. Manpower, Inc. (478-BR-89), Baskerville v. Able Personnel and Office Service (271-BR-89). The claimant is employed, for unemployment insurance purposes, only when he is performing services for which wages are payable. When an assignment has come to an "end, the claimant is no longer employed; since he is not employed, the claimant cannot quit.

Only when the history of the claimant's relationship with the temporary services shows a long, continuous and virtually uninterrupted assignment, or series of uninterrupted assignments, will the Board consider the refusal of the next assignment to amount to a voluntary quit. The rationale for this is that, when the history of the relationship shows that the claimant had in actuality performed continuous work over a substantial period of time -- rather than a series of sporadic employment opportunities -- the employee's breaking of the relationship can fairly be said to be a voluntary quit. On the other hand, the refusal of a temporary assignment by an unemployed person is not a voluntary quit. (Such a refusal could, of course, in an appropriate case, be considered as a job refusal under Section 6(d) of the law.)

Applying this reasoning to this case, the Board concludes that the claimant's employment ended on October 26, 1989 on account of a lack of work or other reason not related to the claimant's misconduct. The claimant did refuse an offer of work made four days later. This, however, does not constitute

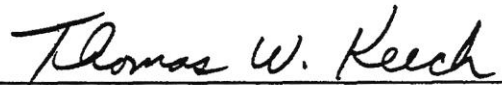
a voluntary quit¹, since the claimant was not employed when the offer was made.

As the Board has explained many times in its decisions on this issue, the reasoning behind these rulings is to assure that those who take action to alleviate their unemployment by accepting a temporary assignment should not be treated more harshly than those who do less.

DECISION

The claimant was discharged on October 26, 1989, but not for any proven misconduct or gross misconduct under Section 6(b) or (c) of the Maryland Unemployment Insurance Law. He did not voluntarily quit within the meaning of Section 6(a) of the law. No penalty is imposed based upon his separation from employment with Select Temporary Services.

The decision of the Hearing Examiner is reversed.


Chairman


Associate Member

K:DW

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT

¹Nor does this offer bring about a penalty for refusing suitable work under Section 6(d) of the law, Sinai Hospital v. Department of Employment and Training, 309 Md. 28. 522 A.2d 382 (1987), since it was made prior to the claimant's first claim for benefits. Of course, any offer made to the claimant after he had applied for unemployment (November 5, 1989) could bring about a penalty under Section 6(d).



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 S. Leitzel	Date:	Mailed: 02/08/90
			8915645
		Appeal No.:	
		S. S. No.:	
Employer:	Select Temporary Services	L.O. No.:	40
		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.

— NOTICE OF RIGHT TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW 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

February 23, 1990

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

— A P P E A R A N C E S —

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Represented by:
Carol Sadoff

FINDINGS OF FACT

The claimant secured temporary employment through Select Temporary Services and worked at the Crestar Bank in Columbia, Maryland, as a clerical worker.

He earned \$8.00 an hour and normally worked from 7:30 a.m. to 4:00 p.m. His period of employment was from October 20, 1989 through October 26, 1989.

On October 26, 1989, the claimant was informed by Helen Searles,

Assistant Vice President, that his services were no longer needed.

The claimant was not pleased with the explanation and brought the matter up with the employer, Select Temporary Services.

The claimant was offered another clerical position at a higher rate of pay and in the general area of his prior employment. The claimant declined the job offer and is presently employed on a temporary basis as of December 2, 1989.

CONCLUSIONS OF LAW

The evidence reveals that the claimant was employed on a temporary assignment by Select Temporary Services at a bank in Columbia, Maryland.

He worked from October 20 to October 26, at which time, he was told that his employment was no longer necessary.

The claimant seemed disturbed that he was let go without a detailed explanation.

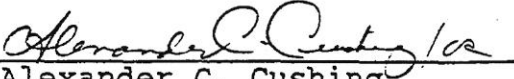
In the meantime, the employer offered the claimant another position at a higher rate of pay. This was declined by the claimant.

The evidence reveals that the claimant voluntarily quit his job, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law.

There are no valid, serious circumstances present to warrant a period of disqualification less than the maximum allowed by Law.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. The claimant is disqualified from receiving benefits from the week beginning October 22, 1989 and until he becomes re-employed and earns at least ten times his weekly benefit amount, (\$2,050.00), and thereafter, becomes unemployed through no fault of his own.


Alexander C. Cushing
Hearing Examiner

Date of Hearing: 1-18-90
cr/Specialist ID: 40312
Cassette No: 441-90
Copies mailed on 02/08/90 to:
Claimant
Employer
Unemployment Insurance - Easton (MABS)