

 **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.:	644-BR-90	
	Date:	June 28, 1990	
Claimant:	Samuel R. Sutch	Appeal No.:	9005428
		S. S. No.:	
Employer:	Peter Alden, et. al. ATTN: Randy Masagee Supvr. of Technical Operations	L O. No.:	50
		Appellant:	CLAIMANT
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) 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 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 AT MIDNIGHT ON July 28, 1990

— 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.

Both the claimant and the employer testified that the claimant voluntarily quit his job. The employer used the word "terminated," but clarified that the claimant "voluntarily terminated due to the circumstances." The claimant testified plainly that he voluntarily quit.

The Board adopts the credibility findings of the Hearing Examiner. The claimant thus did voluntarily quit, but due to the following "circumstances": (1) the employer's property was found on his personal vehicle without authorization, and (2) he had been reprimanded for claiming more hours than he had actually worked - a reprimand which reflected what he had actually done.

A voluntary quit done in response to an employer's reprimand, or in anticipation of being discharged, is a voluntary quit without good cause or valid circumstances, as those terms are used in Section 6(a) of the law. The burden of showing that a reprimand was unreasonable is on the claimant, and the claimant here did not meet that burden with any credible testimony. A quit in anticipation of discharge is regarded as being without good cause or valid circumstances, except in a case where the claimant can show that the employer was acting in bad faith. The claimant has not met his burden on this issue either.

DECISION

The claimant left work voluntarily, without good cause, or valid circumstances, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning March 11, 1990 and until he becomes reemployed, earns at least ten times his weekly benefit amount (\$2,050.00) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed, but the penalty remains the same.

Thomas W. Keech
Chairman

Ray A. Wrench
Associate Member

K:H

kmb
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CLAIMANT

EMPLOYER

OUT-OF-STATE CLAIMS

 **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 —

Date: Mailed: 5/10/90

Claimant: Samuel R. Sutch

Appeal No.: 9005428

S. S. No.:

Employer: Peter Alden, et al.

LO. No.: 50

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 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

May 25, 1990

— A P P E A R A N C E S —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Present by Telephone

Randy Massagee,
Supervisor of
Technical
Operations

FINDINGS OF FACT

The claimant was employed by Peter Alden from September 19, 1988 until March 12, 1990. He was a service technician earning \$9.48 an hour.

The claimant lives in Charleroi, Pennsylvania and while working for the employer had an apartment with co-workers in the

Rockville, Maryland area near where he worked.

The claimant has a pick-up truck with which he went back and forth to his home in Pennsylvania, which was beyond commuting distance on a daily basis.

On February 27, 1990 the claimant's supervisor, who appeared telephonically observed in the claimant's pick-up truck electronic equipment belonging to the employer. This equipment was partially covered with a tarp. This equipment was found to be Tracs boxes. The claimant's vehicle was licensed in Pennsylvania, tag number CJ-15204.

The claimant denied taking any of the employer's equipment. He alleged that his vehicle had been broken open while parked near the employer's premises.

The employer provides the claimant with a truck to perform his work for them.

The claimant is assigned to work Sunday through Wednesday from 8:00 a.m. to 7:00 p.m. On March 7, the claimant left his last job at 5:22 p.m. The claimant reported that he worked until 7:00 p.m.

The claimant alleged that he worked with a co-worker on another job. However he did not explain this to the employer.

For this record the claimant was discharged.

It is concluded that the claimant's testimony regarding having the employer's equipment in his truck and the fact that he worked after 5:22 p.m. on the day in question is not creditable.

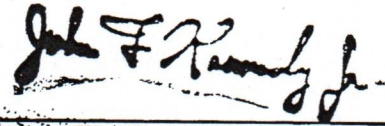
CONCLUSIONS OF LAW

It is found that the claimant was discharged by the employer for having the employer's equipment in his truck and for falsifying his time sheet on one occasion. This is a series of repeated violations of employment rules, proving that the claimant has regularly and wantonly disregarded his obligation to the employer and a willful and wanton disregard of his obligations to the employer which constitutes gross misconduct connected with the work. The determination of the Claims Examiner will be reversed.

DECISION

The claimant was discharged for gross misconduct connected with the work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning March 11, 1990 and until he becomes re-employed and earns at least ten times his weekly benefit amount and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is reversed.



John F. Kennedy, Jr.
Hearing Examiner

Date of Hearing: 5/2/90
alma/Specialist ID: 50524
Cassette No: 3514
Copies mailed on 5/10/90 to:

Claimant
Employer
Out-of-State Claims (MABS)