



DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032
- DECISION -

BOARD OF APPEALS

JOHN J. KENT
Chairman

HENRY G. SPECTOR
HAZEL A. WARNICK
Associate Members

SEVERN E. LANIER
Appeals Counsel

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN
Secretary

DECISION NO.: 720-BH-81

DATE: July 24, 1981

APPEAL NO: EB-0138

S. S. NO:

CLAIMANT: James A. DePasquale

EMPLOYER: Md. School for the Blind

L. O NO: 9

APPELLANT: CLAIMANT

ISSUE:

Whether the Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law; whether the Claimant was unemployed within the meaning of Section 20(1) of the Law; and whether the Claimant was available for work within the meaning of Section 4(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 MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE SUPERIOR COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES A TONIGHT August 23, 1981

- APPEARANCES -

FOR THE CLAIMANT:

James A. DePasquale - Claimant
Theodore A. Cavacos - Attorney

FOR THE EMPLOYER:

Not Represented

FINDINGS OF FACT

The Claimant was employed by the Maryland School for the Blind on September 1, 1980. His position with this Employer was as a maintenance supervisor and he was earning \$308.00 per week at the time he voluntarily resigned from his position with this Employer on January 8, 1981.

At the time the Claimant was hired, he was assured he would have authority to use outside contractors when necessary and was also promised that he would be supplied with sufficient materials to perform his maintenance duties.

The Claimant was never able to perform his work duties satisfactorily because of the delays in obtaining parts, and he was not able to have outside contract help when necessary. The Employer was satisfied with the Claimant's work performance. The Claimant and the Employer discussed the Claimant being unable to obtain the necessary help and equipment to perform his duties; however, there was nothing the Employer could do to alleviate the situation, since the Employer was having financial problems. Because the Claimant was not able to have the proper supplies to perform his work duties, he voluntarily resigned from his position.

The Claimant, after his resignation from his position with the Maryland School for the Blind, took the necessary steps to establish a home improvement business. He consulted an attorney to obtain a home improvement license and is in the process of establishing a business. The Claimant began taking steps to further his self employment during the week ending April 25, 1981. He anticipated opening his business on or about May 1, 1981.

The Claimant performed no services for which wages or any other remuneration was payable during the period between January 9, 1981, and June 16, 1981.

COMMENTS

All evidence having been heard, read and considered, the Board of Appeals finds that the Claimant voluntarily quit his job without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law.

The Claimant voluntarily quit his job because he was unable to receive the necessary help or supplies to complete his job satisfactorily. Under the circumstances of this case, the Claimant's voluntarily quit was without good cause, within the meaning of the Law. The Board finds, however, that the lack of the necessary equipment and outside labor to perform his job duties in a satisfactory manner, as promised by the Employer when he was originally hired, constitutes valid, serious circumstances for leaving his position. Therefore, the maximum disqualification allowable under the Law is not warranted in this case.

The Board also finds that the Claimant was not able, available and actively seeking work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. The Claimant has been devoting his energies towards his self employment since the week ending April 25, 1981.

The Claimant was unemployed within the meaning of Section 20(1) of the Law during the period in question. The Board concludes that the lack of services performed for which wages or other remuneration is payable is dispositive of the 20(1) issue.

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. He is disqualified from receiving benefits from the week beginning January 4, 1981, and the nine weeks immediately following.

The Claimant is unemployed within the meaning of Section 20(1) of the Maryland Unemployment Insurance Law.

The Claimant was not able, available and actively seeking work. He is disqualified from receiving benefits for the week ending April 25, 1981, until all of the eligibility requirements of the Maryland Unemployment Insurance Law are met.

The decision of the Appeals Referee is reversed as to Section 20(1) and modified as to Sections 6(a) and 4(c).

Thomas W. Keech

Chairman

Raymond A. Wadwell

Associate Member

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K:W

DATE OF HEARING: June 16, 1981

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Theodore A. Cavacos

UNEMPLOYMENT INSURANCE - TOWSON



STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

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BOARD OF APPEALS

JOHN J. KENT
 Chairman
 HENRY G. SPECTOR
 HAZEL A. WARNICK
 Associate Members

SEVERN E. LANIER
 Appeals Counsel

GARY SMITH
 Chief Hearings Officer

— DECISION —

CLAIMANT: James A. DePasquale
 EMPLOYER: Maryland School for the Blind
 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.

DATE: 3/11/81
 APPEAL NO.: EB-0138
 S.S.NO.:
 L.O.NO.: 9
 APPELLANT: Claimant

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 EMPLOYMENT SECURITY OFFICE, 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 March 26, 1981

— APPEARANCES —

FOR THE CLAIMANT: Claimant-Present
 FOR THE EMPLOYER: Not Represented

FINDINGS OF FACT

The claimant filed a claim for benefits effective March 2, 1980. His weekly benefit amount was determined to be \$102.

The claimant was employed by Maryland School for the Blind from September 1, 1980 until January 8, 1981. He was an Assistant Physical Plant Supervisor and was employed at a salary of \$17,000 a year.

The claimant resigned his employment because he contended that there was insufficient staffing of the maintenance department, inadequate vehicles for mobility, insufficient funding for replacing parts and equipment, failure to use outside contractors when needed. Also certain buildings and projects were not renovated. He complained about these matters but in effect nothing was done so he decided to leave the employment.

The employer reported that they had no complaints about his performance, that he submitted a letter of resignation. He discussed problems with his supervisor and personnel manager but nothing could be done about the matter.

The claimant admitted that he knew that institutions such as the school of the blind were having financial problems due to increase of cost in operation for fuel and other increased expenses.

The claimant stated at the Hearing on March 4, 1981 that he intended to establish a home improvement business. He has a license from the Maryland Home Improvement Commission and indicated that he is consulting his Lawyer about drawing up papers prior to his going in to business on or about April 1, 1981.

COMMENTS

It is found that the claimant left the employment because he was dissatisfied about working conditions. This is a personal reason for leaving work not attributable to the employer or the employment and can not be considered to be a good cause for leaving otherwise suitable work within the provisions of Section 6(a) of the Maryland Unemployment Insurance Law. The determination of the Claims Examiner must be affirmed. In this case there are no serious valid circumstances to warrant the imposition of less than the maximum disqualification allowed by Law as the employer had no complaints against the claimant. The maximum disqualification must be imposed in these circumstances.

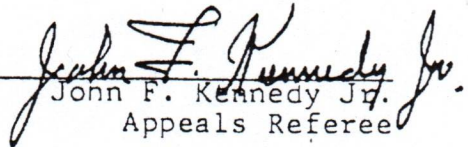
As the claimant is intending to go into business and testified to this effect at the Hearing held March 4, 1981 and thus he has taken steps to establish his business such as obtaining an Home Improvement license and consulting his lawyer about legal procedures to establish a business, it must be concluded that he is self employed and not unemployed. A disqualification will be imposed on this issue.

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. He is disqualified from receiving benefits for the week beginning January 4, 1981 and until he becomes re-employed and earns at least ten times his weekly benefit amount (\$1,200) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is modified.

The claimant is not unemployed within the meaning of Section 4 and 20(1) of the Law. Benefits are denied from March 1, 1981 and until the eligibility requirements of the Law are met.



John F. Kennedy Jr.
Appeals Referee

Date of Hearing: 3/4/81

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(6737)-Moody

Copies mailed to:

Claimant

Employer

Unemployment Insurance - Towson