



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032
- DECISION -

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN
Secretary

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

DECISION NO.: 1420-BH-82

DATE: October 6, 1982

APPEAL NO.: 26013

S. S. NO.:

L. O NO.: 8

APPELLANT: CLAIMANT

CLAIMANT: Veronica McDermott

EMPLOYER: The Macke Company

ISSUE Whether the Claimant was able to work, available to work, and actively seeking 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 AT MIDNIGHT November 5, 1982

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Veronica McDermott - Present

Charles Brant, III
Client Service-
Representative

EVIDENCE CONSIDERED

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board also considered all of the documentary evidence introduced into this case, as well as the Employment Security Administration's documents in the appeal file. The Board of Appeals has also taken administrative notice that clerical jobs are performed for the most part during weekdays.

FINDINGS OF FACT

The issue of Section 6(a) was not raised or litigated on appeal. Therefore, the Board adopts the findings of fact of the Appeals Referee with regard to the Claimant's separation from employment with the Macke Company.

The Claimant was separated from her employment on October 9, 1981. She applied for unemployment insurance benefits, with a benefit year beginning November 15, 1981. Her occupation was classified as an accounting clerk. She began looking for full time work as an accounting clerk, general clerk and receptionist. The Claimant had prior experience working as a dispatcher/receptionist and also sought work in that area, although many of those jobs are at night.

The Claimant, who had been working for several years, had never worked at night or on the weekends, except in her own home. She was unable to work at night or on weekends when she first filed for benefits. However, on February 6, 1982, she became available to work all hours including evenings and weekends, if necessary.

The Board finds as a fact that, given the Claimant's classification and the fact that she was primarily seeking clerical work, the Claimant had been making a reasonable search for work since she first filed a claim for benefits in November 1981.

Although the Claimant, in her efforts to find a job, attempted to expand her work search to include dispatcher work, she was prohibited from doing so by the Employment Security Administration. An employee of the Agency required her to sign a statement that she would no longer look for dispatcher work, since that frequently entailed weekend and night work and at that time she was unavailable during those hours. Although this was in addition to, and not in place of, the clerical work she was seeking, the Claimant was told that if she did not sign the statement she would be disqualified under Section 4(c) of the Law.

CONCLUSIONS OF LAW

The Board concludes that the Claimant has been able, available, and actively seeking work, within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law since her benefit year began, November 15, 1981. The Claimant has been looking for

clerical and office work. Based on the evidence presented, and taking administrative notice that clerical jobs are performed for the most part during the day, the Board concludes that the Claimant's search for work has been all and more that a reasonable person could be expected to do, under the circumstance.

The Board notes with dismay that the Claimant was actually thwarted in her attempt to expand her search for work by the Employment Security Administration, who literally forced her to abandon her search for dispatcher jobs, on pain of losing her benefits! The Board finds this to be a totally absurd interpretation of Article 95A.

An additional search for work, over and above a search for regular work in the customary hours that work was performed, does not disqualify a Claimant under Section 4(c) even though the additional work sought is not sought at all the hours the additional work is customarily performed.

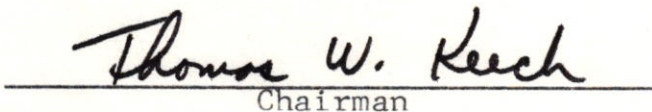
DECISION

The Claimant's unemployment was due to leaving work voluntarily, but with good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. No disqualification is appropriate under Section 6(a) of the Law based on her separation from the Macke Company.

The Claimant was able, available, and actively seeking work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. She is not disqualified from the receipt of benefits under that Section.

The decision of the Appeals Referee is reversed.


Associate Member


Chairman

W:K
gm

DATE OF HEARING: July 20, 1982

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Reed. Roberts Associates, Inc.

[REDACTED]

UNEMPLOYMENT INSURANCE - ANNAPOLIS



DEPARTMENT OF HUMAN RESOURCES
 EMPLOYMENT SECURITY ADMINISTRATION
 1100 NORTH EUTAW STREET
 BALTIMORE, MARYLAND 21201
 383 - 5040

STATE OF MARYLAND
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 Secretary

R E M A N D
 - DECISION -

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

CLAIMANT: Veronica McDermott

DATE: May 14, 1982

APPEAL NO.: 26013-EP

S. S. NO.:

EMPLOYER: The Macke Company

L. O. NO.: 8

APPELLANT: Employer

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 able and available for work within the meaning of Section 4 (c) 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 EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 511, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

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

June 1, 1982

- APPEARANCES -

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER:

Represented by
 Allan J. Korknak,
 Manager; and
 Michael Litzelman,
 Reed Roberts
 Associates, Inc.

FINDINGS OF FACT

The claimant worked for the company from March 19, 1979 until October 9, 1981. She was employed as an accounting clerk, earning \$5.40 an hour, scheduled to work from 8 a.m. to 4:30 p.m., five days per week. Prior to the claimant's separation, she had suffered with physical problems associated with nerves

and her employer had permitted her to work only three or four days per week. The claimant continued to work for the employer on occasion for five-day work week when the job required it, and when she was away from the job for a day or several days, her work would simply not be done and would be waiting for her when she returned. Because of the pressures on the claimant's job, to get the job done, which from time to time required her to work a full 40-hour work week, she quit her job October 9, 1981 based upon her doctor's advice.

While the claimant had primarily been employed as an accounting clerk for the last several years with this employer, upon quitting her job, she began looking for employment in general clerical, receptionist, accounting clerk, that she would not be required to work overtime on, and would not be required to work evenings or weekends. During the claimant's subsequent appeal hearing, held April 23, 1982, it was learned that she had not been willing to work evenings or weekends because of child care problems, but that she had very recently made arrangements for someone to watch her children and was now available to accept evening or weekend work if required to offered to her, although she preferred working a standard 40-hour day job.

While the claimant's primary occupation is that of an accounting clerk, and the claimant has been released by her physician as capable of performing full-time accounting work as long as it is not in a stressfull environment and she is not required to work overtime. The usual and customary hours of employment for an accounting clerk are Monday through Friday on the day shift.

The customary and usual hours for employment as a receptionist are normal daytime hours and into the evenings until approximately 9 p.m. for many restaurants, doctor's offices, or beauty salons. The claimant has been looking for employment at beauty salons as a receptionist, but stated clearly that up until the time of the appeal hearing, she did not have adequate child care for her children and was not willing to accept work in the evenings of weekends.

CONCLUSIONS OF LAW

Since the claimant voluntarily quit her job for medical reasons, no penalty under Section 6 (a) of the Law is warranted and the determination of the Claims Examiner under this provision of the Law will be affirmed.

Since the claimant has been seeking employment as a receptionist, accounting clerk, or general clerical positions, but has been unwilling to accept employment which would require her to work overtime in the evenings or weekends because of child care problems and since at least the job as a receptionist frequently

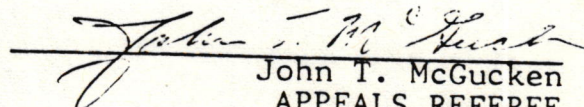
requires a person to work evenings or weekends, she has been restricting her search for employment by not being available for employment during the hours of employment in those occupations that customarily and usually employ people. Her search for employment then has included only full-time regular hours of employment for an accounting clerk and an additional search for employment in occupations which she is not willing to accept the normal and customary hours of employment and thus her search for employment in those occupations has not been a valid search for work and it will be found that she has not been fully able, available, and actively seeking employment, without restrictions, and the determination of the Claims Examiner under Section 4 (c) of the Law will be extended through the week ending April 24, 1982.

DECISION

The claimant terminated her employment for medical reasons within the meaning of Section 6 (a) of the Law.

That the claimant was not able, available, and actively seeking full-time, regular employment, without restrictions, as required by Section 4 (c) of the Law. Benefits are denied from the week beginning November 15, 1981 through the week ending April 24, 1982.

The disqualification is modified to this extent.


 John T. McGucken
 APPEALS REFEREE

Date of Hearing - 4/23/82
 cd/6554
 (379/Lucas)

COPIES MAILED TO:

- Claimant
- Employer
- Unemployment Insurance - Annapolis
- Board of Appeals
- Reed Roberts Associates, Inc.