

**- DECISION -**

Claimant:  
BECKY L DAVIS

Decision No.: 1837-BR-00

Date: October 05, 2000

Appeal No.: 0010968

S.S. No.:

Employer:  
HARFORD CO PUB SCHOOLS

L.O. No.: 60

Appellant: Employer

Issue: Whether the claimant left work voluntarily, without good cause within the meaning of Maryland Code, Labor and Employment Article, Title 8, Section 1001.

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**- NOTICE OF RIGHT OF APPEAL TO COURT -**

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how to file the appeal can be found in many public libraries, in the *Maryland Rules of Procedure, Title 7, Chapter 200*.

The period for filing an appeal expires: November 04, 2000

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**REVIEW ON THE RECORD**

Upon review of the record in this case, the Board of Appeals affirms the decision of the Hearing Examiner but modifies the Conclusions of Law. The Hearing Examiner based her conclusions on the Board precedent decision **Baywood v. R.M. R. Corporation**, 408-BR-82. That was correct at the time she issued the decision, on August 4, 2000.

However, as a result of the Court of Appeals decision in **Total Audio-Visual Systems, Inc. v. Department of Labor, Licensing and Regulation et al** (In the Court of Appeals of Maryland, No 145, September Term, 1999), issued on August 25, 2000, the Board issued a new precedent decision, which overturned the effect of **Baywood**. In **Gaskins v. United Parcel Service**, 1686-BR-00, the Board held that:

1. The Court of Appeals' holding in **Total Audio-Visual Systems, Inc.** is applicable to all matters still in litigation when the decision was issued on August 25, 2000; and
2. Under that holding, quitting a job to accept another job cannot be considered either good cause or a substantial cause connected with the work, within the meaning of LE, Section 8-1001. (It may be a valid circumstance, but only if the claimant can show that the reasons for quitting were "necessitous or compelling.")

**Baywood**, therefore, is no longer a precedent decision.

In the case herein, the claimant was working two part time jobs simultaneously. She left one part time job because it interfered with the more substantial part time job. She did not leave one job to accept another job. This is distinguishable on its facts from **Gaskins or Total Audio Visual Systems, Incorporated**. Under these circumstances, the Board concludes that a finding of valid circumstances is supported and for that reason, affirms the decision of the Hearing Examiner.

### DECISION

It is held that the claimant left work voluntarily, without good cause but for valid circumstances, within the meaning of Maryland Code Annotated, Labor and Employment Article, Title 8, Section 1001. She is disqualified from receiving benefits from the week beginning May 14, 2000 and the four weeks immediately following.

The decision of the Hearing Examiner is affirmed.

Hazel A. Warnick, Chairperson



Donna Watts-Lamont, Associate Member

**Notice of Right to Request Waiver of Overpayment**

The Department of Labor, Licensing and Regulation may seek recovery of any overpayment received by the Claimant. Pursuant to Section 8-809 of the Labor and Employment Article of the Annotated Code of Maryland, and Code of Maryland Regulations 09.32.07.01 through 09.32.07.09, the Claimant has a right to request a waiver of recovery of this overpayment. This request may be made by contacting Overpayment Recoveries Unit at 410-949-0022 or 1-800-827-4839. If this request is made, the Claimant is entitled to a hearing on this issue.

**A request for waiver of recovery of overpayment does not act as an appeal of this decision.**

Copies mailed to:  
BECKY L. DAVIS  
HARFORD CO PUB SCHOOLS  
LOCAL OFFICE #60

**UNEMPLOYMENT INSURANCE APPEALS DECISION**

BECKY L DAVIS

SSN #

**Claimant**

vs.

HARFORD CO PUB SCHOOLS

**Employer/Agency**

Before the:

**Maryland Department of Labor,  
Licensing and Regulation**

**Division of Appeals**

1100 North Eutaw Street

Room 511

Baltimore, MD 21201

(410) 767-2421

Appeal Number: 0010968

Appellant: Claimant

Local Office : 60 / TOWSON CALL  
CENTER

August 04, 2000

**For the Claimant : PRESENT**

**For the Employer : PRESENT , DONNA KLAUZA, WALLACE OBERENDER**

**For the Agency:**

**ISSUE(S)**

Whether the claimant's separation from this employment was for a disqualifying reason within the meaning of the MD. Code Annotated, Labor and Employment Article, Title 8, Sections 1001 (Voluntary Quit for good cause), 1002 - 1002.1 (Gross/Aggravated Misconduct connected with the work), or 1003 (Misconduct connected with the work).

**FINDINGS OF FACT**

The claimant was employed by Harford County Public Schools on March 25, 1997. At the time of her separation from employment on May 16, 2000, she earned \$8.50 an hour as a part-time cafeteria worker.

The claimant quit because her part-time employment with the Harford County Public Schools because it conflicted with her employment as the bus driver with a J.A. Greene Company. The claimant's hours of work with the Harford County Public Schools were from 10:15 a.m. to 1:45 p.m. Her hours of work with the J.A. Greene Company were from 6:30 a.m. to 9:00 a.m. and 2:00 p.m. to 4:15 p.m. Because of late openings, early dismissals, and other unavoidable changes in her schedule, the claimant's job as a bus driver caused the

claimant to be late for work or have to leave work early.

The claimant worked five and one-half hours per day as a bus driver with J.A. Greene Company and earned \$10.50 per hour. Since her employment with the J.A. Greene Company was more substantial, she quit her job with Harford County Public Schools.

### CONCLUSIONS OF LAW

Md. Code Ann., Labor & Emp. Article, Section 8-1001 (Supp. 1996) provides that an individual shall be disqualified for benefits where unemployment is due to leaving work voluntarily without good cause arising from or connected with the conditions of employment or actions of the employer, or without valid circumstances. A circumstance is valid only if it is "(i) a substantial cause that is directly attributable to, arising from, or connected with conditions of employment or actions of the employing unit; or (ii) of such necessitous or compelling nature that the individual has no reasonable alternative other than leaving the employment."

Where a claimant is offered a substantially higher salary at another place of employment, and where the employment offered is in the same field, there is a definite and bona fide offer of employment, and the work is at least as stable and permanent, the claimant has good cause for leaving to accept the superior employment. Baywood v. R.M.R. Corporation, 408-BR-82.

### EVALUATION OF EVIDENCE

In this case, the claimant held two part-time jobs whose hours sometimes conflicted. The claimant resigned from her job with Harford County Public Schools to maintain employment with the J.A. Greene Company that paid a better salary and offered more hours. The claimant's resignation does rise to the level of good cause because it was in a different field but valid circumstances are present in this case to warrant a mitigated penalty.

### DECISION

IT IS HELD THAT the claimant's unemployment was due to leaving work voluntarily without good cause but with valid circumstances within the meaning of Md. Code Ann., Labor & Emp. Article, Section 8-1001 (Supp. 1996). The claimant is disqualified for the week beginning May 14, 2000, and for the four weeks immediately following.

The determination of the Claim Specialist is modified.

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S. Moreland, Esq.  
Hearing Examiner

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**A request for waiver of recovery of overpayment does not act as an appeal of this decision.**

**Notice of Right of Further Appeal**

Any party may request a further appeal either in person or by mail which may be filed in any local office of the Department of Labor, Licensing and Regulation, or with the Board of Appeals, Room 515, 1100 North Eutaw Street, Baltimore, MD 21201. Your appeal must be filed by August 19, 2000.

Note: Appeals filed by mail are considered timely on the date of the U. S. Postal Service postmark.

Date of hearing : August 02,2000

RMpecialist ID: UTW3A

Seq No: 001

Copies mailed on August 04, 2000 to:

BECKY L. DAVIS  
HARFORD CO PUB SCHOOLS  
LOCAL OFFICE #60  
DONNA KLAUZA