

 **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.:	187-BH-90	
	Date:	Feb. 23, 1990	
Claimant:	Elizabeth McClain	Appeal No.:	8912962
		S. S. No.:	
Employer:	D & G Container, Inc. ATTN: E. Eugene Whitmore	L O. No.:	1
		Appellant:	EMPLOYER
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law.		

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**— 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.

March 25, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

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**— APPEARANCES —**

FOR THE CLAIMANT:

Elizabeth McClain (left at 11:50,  
before hearing began)

FOR THE EMPLOYER:

Bruce Topliffe, V.P.  
of Operations;  
Chris Whitmore,  
Witness

## EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Economic and Employment Development's documents in the appeal file.

## FINDINGS OF FACT

The claimant was employed by D & G Container, Inc. as a forklift operator from approximately June, 1987 until she voluntarily quit on or about August 4, 1989. During that period of time, she had left employment with D & G Container, Inc. in February of 1989. However, she was rehired by the employer on April 17, 1989 and worked there until her final decision to leave in August.

The claimant quit her job because she could not get along with a fellow employee, Chris Whitmore. Mr. Whitmore, the son of one of the owners of the company, was a co-employee of the claimant's; she was not his supervisor.

When the personality conflict between the claimant and Mr. Whitmore came to the attention of the employer, the Vice President for Operations talked about the problem with the claimant, the other employee and their immediate supervisor. The claimant assured him at the time that she could handle the situation.

The claimant understood that if she had problems she could always discuss them with her employer. The employer, in fact, had previously loaned the claimant some money and generally went out of its way to help its employees. Nevertheless, she never complained to the employer about any serious problems nor did she notify him that the matter had gotten out of hand.

The employer admitted that, at the beginning of his employment, Chris Whitmore was not a great employee; but the employer worked with him to improve his performance, as he did with all of his employees, and he did gradually improve. In any case, he was not supervised by the claimant, and he was not her responsibility.

Although a certain amount of vulgar language was used by everyone, including the claimant, this was tolerated to some degree by the employer. The Board finds as a fact that the language used by Mr. Whitmore towards the claimant was not out of the ordinary or of a harassing nature.

Nevertheless, the claimant continued to be disturbed by what she perceived to be a continuing conflict between her and the other employee, and she eventually quit her job.

#### CONCLUSIONS OF LAW

The Board concludes that the claimant voluntarily quit her job and has failed to show that her reason was either good cause or a valid circumstance within the meaning of Section 6(a) of the law. Leaving merely because of a personality conflict with another employee is not grounds for receiving unemployment insurance benefits. There is insufficient evidence that the claimant was harassed or treated unfairly. When she did complain about the other employee, the employer did whatever it could to alleviate the situation. The claimant was not verbally abused by this other employee. The claimant was not this employee's supervisor, and this was not a case of insubordination by the other employee toward the claimant.

If the problem was more serious than the evidence shows, the claimant never brought it to the employer's attention but instead just quit her job. Under the circumstances, the decision of the Hearing Examiner will be reversed, and the claimant will be found to be disqualified from receiving unemployment insurance benefits under Section 6(a) of the law.

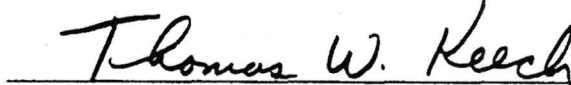
#### DECISION

The claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning July 30, 1989 and until she becomes re-employed, earns at least her weekly benefit amount (\$1,400) and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is reversed.

  
Associate Member

  
Associate Member

  
Chairman

Date of Hearing: February 20, 1990

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE

 **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

**— DECISION —**

Date: Mailed: November 27, 1989

Claimant: Elizabeth A. McClain Appeal No.: 8912962

S. S. No.:

Employer: D & G Container, Inc. L.O. No.: 01

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.

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**— 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

December 12, 1989

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**— APPEARANCES —**

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Elizabeth A. McClain - Claimant

Not Represented

**FINDINGS OF FACT**

The claimant was employed by the D&G Container Company on April 17, 1989. At the time of her separation from employment on August 4, 1989, she earned \$6.40 an hour as a forklift operator.

The claimant quit her job because of being constantly verbally abused by another employee. The employee would call the claimant obscene names. He would also refuse to do what the claimant, who was his supervisor, told him to do.

The claimant complained to the employer about the employee's behavior but nothing was done about him because he was the son of the owner of the company.

#### CONCLUSIONS OF LAW


Article 95A, Section 6(a) provides that no disqualification from unemployment insurance benefits where a claimant leaves employment with good cause attributable to the actions of the employer or to the conditions of the employment. In this case, the claimant demonstrated that she quit for good cause, within the meaning of Section 6(a) of the law.

#### DECISION

The claimant voluntarily quit for good cause, within the meaning of Section 6(a) of the Law.

Benefits are allowed.

The determination of the Claims Examiner is reversed.



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Sarah Moreland  
Hearing Examiner

Date of Hearing: November 14, 1989  
bch/Specialist ID: 01083  
Cassette No: 9540  
Copies mailed on November 27, 1989 to:

Claimant  
Employer  
Unemployment Insurance - Baltimore (MABS)