

# Maryland

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DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT



**BOARD OF APPEALS**

Thomas W. Keech  
Chairman

Hazel A. Warnick  
Associate Member

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033

William Donald Schaefer, Governor  
J. Randall Evans, Secretary

Decision No.: 223 -BH-88  
Date: March 31, 1988  
Claimant: Pattrina Hickey  
Appeal No.: 8711801  
S. S. No.: [REDACTED]  
Employer: Maryland State Police  
L.O. No.: 2  
Appellant: CLAIMANT

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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

April 30, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

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**— APPEARANCES —**

FOR THE CLAIMANT:

Pattrina Hickey, Claimant

FOR THE EMPLOYER:

Louis Saffran, Jr.,  
Asst. Dir., Medical  
Services  
Mike Gallagher, U.I.  
Unit

*Murphy*

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT



100 North Euter Street  
Baltimore, Maryland 21201  
(301) 997-9000

100 North Euter Street  
Baltimore, Maryland 21201  
(301) 997-9000

NAME OF APPLICANT  
Thomas A. Kersch  
CLAIMANT  
Name of Employer  
Associated Employer

222-BH-88

Decision No.

MAYON 11, 1988

Date

8711801

Access No.

279-82-0180

S. S. No.

Patricia Hickey  
3414 Greenview Rd., S.E.  
Apt. 2-150  
Washington, DC 20030

Maryland State Police  
620 Dept. of Personnel  
201 W. Preston Street  
Reg. Div.  
Baltimore, MD 21201

CLAIMANT

Applicant

Whether the claimant left work voluntarily, without good cause, within the meaning of Section 2(a) of the law.

— NOTICE OF RIGHT OF APPEAL TO COURT —

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April 30, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE EMPLOYER

FOR THE CLAIMANT

Louis Salinas  
Asst. Dir., Medical  
Services  
Mike Galisher, L.L.  
Yair

Patricia Hickey, Claimant

## 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 significant facts of this case are not in dispute by either the claimant or the employer. The Board adopts the Findings of Fact made by the Hearing Examiner.

## CONCLUSIONS OF LAW

The claimant's actions in leaving her employment by resignation because her employer was no longer able to accommodate her religious need to be off from sundown Friday to sundown Saturday was with good cause within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law.

The claimant's religious beliefs do not allow her to work between sundown Friday and sundown Saturday. This belief is in conflict with the shift schedules she would, from time to time, have to work in connection with her job at the Maryland State Police. The Supreme Court has held in Thomas v. Review Board of the Indiana Employment Security Division, et al., 101 S.Ct. 1425 (1981), that the narrow function of a reviewing court in this context is to determine whether there was an appropriate finding that petitioner terminated his work because such work was forbidden by his religion.

The record shows that petitioner terminated his employment for religious reasons. Supra, 1431. The Supreme Court further held that a person may not be compelled to choose between the exercise of a first amendment right and participation in an otherwise available public program. Ibid.

The facts of this case are clear that the claimant terminated her employment for religious reasons.

## DECISION

The claimant's unemployment was due to leaving work voluntarily, with good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. The claimant is granted unemployment insurance benefits from the week beginning October 25, 1987.



The decision of the Hearing Examiner is reversed.

  
\_\_\_\_\_  
Associate Member

  
\_\_\_\_\_  
Chairman

W:K

kbm

Date of Hearing: March 29, 1988

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Maryland State Police  
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UNEMPLOYMENT INSURANCE - GLEN BURNIE

STATE OF MARYLAND  
APPEALS DIVISION  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201  
(301) 383-5040

STATE OF MARYLAND  
William Donald Schaefer  
Governor

--- DECISION ---

Date: Mailed January 8, 1988

Claimant: P. H. Hickey

Appeal No: 8711801

S.S. No.:

Employer: Maryland State Police

L.O. No.: 02

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.

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--- 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 515, 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

January 25, 1988

NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

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--- APPEARANCES ---

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present

Louis W. Saffran, Jr.,  
Assistant Director,  
Medical Section

FINDINGS OF FACT

The Claimant was employed by the Maryland State Police from June 24, 1987, to on or about October 27, 1987, her last job classification as a police communication operator at an annual salary of \$13,101, working approximately 36 and one half hours a week.



At the time the Claimant accepted the employment, she was aware that it was shift work and she raised no objections to such employment. The Claimant joined the Seventh Day of Adventist religious beliefs, which would require her not to work through sundown Friday through sundown Saturday. The employer would attempt to meet the Claimant's needs in taking off from work during this time. However, co-workers were starting to raise objections and the employer called the Claimant in, indicating that she would be placed on regular schedule and it would then be her responsibility in finding others to substitute for her. The Claimant found that such requests were not being answered, so she decided to resign.

#### CONCLUSIONS OF LAW

The Claimant's actions in leaving her employment by a resignation because co-workers would not always comply with her requests of changing a schedule with her brought about by religious beliefs, demonstrates a will, desire and intent to leave one's work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. There are, however, serious and/or valid circumstances present to warrant the imposition of a disqualification less than the maximum permitted under the Maryland Unemployment Insurance Law, especially in view of the fact that the Claimant committed herself to a religious belief and she was willing to work other hours to fulfill her obligations to the job.

#### DECISION

The Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. The Claimant is denied unemployment insurance benefits for the week beginning October 25, 1987, and for the nine weeks immediately following thereafter.

The determination of the Claims Examiner is affirmed.

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Selig A. Wolfe  
Hearing Examiner

Date of Hearing: December 7, 1987  
Cassette: 7256  
Specialist ID: 02423  
Copies Mailed on January 8, 1988 to:  
Claimant  
Employer  
Unemployment Insurance - Glen Burnie (MABS)  
  
Maryland State Police