

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

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



William Donald Schaefer, Governor
J. Randall Evans, Secretary

BOARD OF APPEALS

Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

	Decision No.:	465 -BH-89
	Date:	June 2, 1989
Claimant: Matilda Macon	Appeal No.:	8814037
	S. S. No.:	
Employer: Department of Health	L. O. No.:	45
	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.

— 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.

July 2, 1989

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

Matilda Macon, Claimant
Peter Sabonis, Attorney
Legal Aid Bureau

FOR THE EMPLOYER:

Charlie Spinner,
Personnel Technician
Pat McCord, Asst.
Project Director
Grace Weber, Project
Director

EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented in this case, 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 is seventy-five years old and receives \$346.00 per month in Social Security benefits. Because of her age, however, the claimant has no limit imposed by Social Security on her earnings. The claimant also requires additional income and has been working since she was approximately eight years old. She has been employed for a number of years for the Baltimore Orioles, working at the stadium during night home games. Because of a business change in the stadium arrangements, the claimant, beginning with the 1988 season, was transferred from the food concession stand to the ladies restroom, where she functions as a ladies restroom attendant during night games.

The employment in this case was additional employment, which the claimant undertook on February 4, 1988. The claimant took a job with the City Health Department at \$3.35 per hour for 20 hours of work per week. The job consisted of housekeeping, including dishwashing, cooking, window washing, cleaning up bathrooms and kitchens, mopping floors and also running errands for senior citizens who are clients of the health department. The claimant was supposed to work four hours per day, once a week, at each of five different clients' homes. She had to provide her own transportation to these homes. The claimant expressed a strong preference that she be assigned to one or two homes on a permanent basis. This was because she found it difficult to get to these five different locations every week. This required taking the bus, and sometimes involved multiple transfers in order to reach her clients' homes by 9:00 a.m. in the morning. She encountered this difficulty in returning home. She also had some difficulty in completing her assignments by 1:00 p.m., as her elderly clients would often make additional demands on her. The claimant enjoyed her actual work, and she was considered by the employer to be an exemplary worker. There came a time in September of 1988 when the claimant was advised that she would have to take a physical examination in order to continue her employment. The claimant declined and quit her employment at that time.

The claimant had been diagnosed in 1984 as having diabetes. After the claimant had completed her onerous daily transportation and work schedule for several months, she found that she was having increasing difficulty with her diabetes, and was feeling shaky and at times was having problems seeing. Although she could not afford to see a private physician, she was advised by her daughter, a registered nurse, that her increasing problems with diabetes may have been related to the stress she was experiencing at her work. The claimant then resigned her employment with the Health Department, though she continued her job with the Baltimore Orioles. She could have and would have continued her employment with the Health Department, had it not required transportation to and from five different locations every week.

CONCLUSIONS OF LAW

The Board concludes that the claimant did not have good cause connected with the conditions of employment for leaving her job. This is because the claimant understood when she took the job that it would require travel to five different locations per week. The conditions did not change, nor were they utterly unreasonable.

The conditions were, however, quite onerous, not only for a 75-year-old woman, but for anyone. The employer was offering only four hours of work per day at the minimum wage, and was requiring the employee to travel to five different locations a week in order to perform four hours of service at each of these locations. It is certainly understandable that this situation could cause stress for the claimant, and it is medically documented that this stress could cause a worsening of her case of diabetes. The Board concludes, therefore, that the claimant had a necessitous and compelling reason for leaving her employment and that she had no reasonable alternative but to do so. The claimant thus has valid circumstances within the meaning of Section 6(a) of the law, and the minimum penalty will be applied.

Fortunately for the claimant, she was able to continue her night work and to perform other types of work which do not require such an onerous transportation schedule.

DECISION

The claimant voluntarily left her employment, without good cause but for valid circumstances within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from the receipt of benefits from the week beginning September 25, 1988 and the four weeks immediately following.

The decision of the Hearing Examiner is modified.

Thomas W. Keech
Chairman

Hazel A. Wainik
Associate Member

Donna P. Watts
Associate Member

K:W:W

kbm

Date of Hearing: May 23, 1989

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Peter Sabonis, Esq.

UNEMPLOYMENT INSURANCE - NORTHWEST

STATE OF MARYLAND
APPEALS DIVISION
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
(301) 388-6848

STATE OF MARYLAND
William Donald Schaefer
Governor

— DECISION —

Claimant:	M. Macon	Date:	Mailed: 2/21/89
		Appeal No.:	8814037
		S.S. No.:	
Employer:	Department of Health	L.O. No.:	045
		Appellate:	Employer

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.

— 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 818, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON 3/8/89
NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

— APPEARANCES —

FOR THE CLAIMANT:

Not Present

FOR THE EMPLOYER:

Charles Spinner.
Personnel Tech.
Supervisor

FINDINGS OF FACT

The claimant worked for the employer, the Department of Health, Civil Services Commission, at a pay rate of \$3.60 per hour for full-time employment. On September 28, 1988, the claimant resigned her employment by explaining that she was having trouble with her hearing and talking. She offered no medical certification of her physical condition. There was continuing work for her had she not resigned.

The claimant, duly notified at the time and place of the appeal

hearing, was not present.

CONCLUSIONS OF LAW

It is held that the claimant voluntarily quit her employment for reasons which do not constitute good cause for so doing, in that they are not directly attributable to the employer and/or conditions of employment. It is further held that the valid circumstances sufficient to warrant a weekly disqualification have not been presented at the appeal hearing. The determination of the Claims Examiner will be modified.

DECISION

The claimant voluntarily quit her employment, without good cause, within the meaning of Section of 6(a) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning September 25, 1988, until reemployed and earns ten times her weekly benefit amount. The determination of the Claims Examiner is hereby modified.



P. J. Hackett
Hearing Examiner

Date of Hearing: February 10, 1989
km/Specialist ID: 45538-(1055A)
Copies mailed on February 21, 1989 to:

Claimant
Employer
Unemployment Insurance - Northwest - (MABS)