



STATE OF MARYLAND
HARRY HUGHES
Governor

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DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: 383-5032

BOARD OF APPEALS
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SEVERN E. LANIER
Appeals Counsel

—DECISION—

	DECISION NO.:	655-BH-83
	DATE:	May 20, 1983
CLAIMANT: Michael L. Apson	APPEAL NO.:	01302
	S. S. NO.:	
EMPLOYER: Kenster Tri- State & Co.	LO. NO.:	1
	APPELLANT:	CLAIMANT
ISSUE	Whether the Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of § 6(a) of the Law.	

NOTICE OF RIGHT OF APPEAL TO COURT

YOU MAY FILE AN APPEAL FROM THIS DIVISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAYBE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE 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 *June 19, 1983*

— APPEARANCE —

FOR THE CLAIMANT	FOR THE EMPLOYER:
Michael L. Apson - Claimant	Not Represented
Timothy Umbreit - Attorney	

EVIDENCE CONSIDERED

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 Employment Security Administration's documents in the appeal file.

FINDINGS OF FACT

The Claimant was previously employed by Lozito Contracting, Inc. When he was laid off from his position there, he applied for and received unemployment insurance benefits.

The Claimant actively sought work while collecting benefits and, as a result, he found work with Kenster Tri-State & Co. This company is located at or near the Washington, DC - Virginia border, approximately 50 miles from the Claimant's home in Baltimore, Maryland.

The Claimant worked one day on his new job when his 1976 Buick broke down. This was his only means of transportation to the job. The Claimant had no money for repairs having been unemployed for some period of time. The Claimant quit his job with Kenster Tri-State and Company.

CONCLUSIONS OF LAW

The Claimant left work without good cause, within the meaning of § 6(a) of the Maryland Unemployment Insurance Law. Section 6(a) provides that only a cause which is directly attributable to, arising from, or connected with the conditions of employment or actions of the Employer may be considered good cause. The Claimant left work because his car broke down leaving him without transportation to work. This is not directly attributable to the conditions of employment or acts of the Employer.

Nevertheless, Maryland's Unemployment Insurance Law does recognize good personal causes for leaving work which are referred to in the law as "valid circumstances". Section 6(a) provides that valid circumstances exist when an individual leaves work by reason of a cause of such a necessitous or compelling nature that the individual had no reasonable alternative other than to leave. We conclude that valid circumstances for leaving work were present in this case. The Claimant accepted work which might have been considered unsuitable considering the distance of the work from his residence. When the Claimant lost the only transportation available to him to commute 50 miles one way to work, there existed a cause of such a necessitous and compelling nature, and the Claimant had no reasonable alternative other than to leave work.

DECISION

The unemployment of the Claimant was due to leaving work voluntarily, without good cause, within the meaning of § 6(a) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning April 4, 1982, and the four weeks immediately following.

The decision of the Appeals Referee is modified to this extent.


Associate Member


Associate Member

D:W
dp

DATE OF HEARING: May 10, 1983

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Timothy Umbreit, Esquire

UNEMPLOYMENT INSURANCE - BALTIMORE



STATE OF MARYLAND
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 Appeals Counsel
 MARK R. WOLF
 Administrative
 Hearings Examiner

- DECISION -

CLAIMANT: Michael L. Apson
 EMPLOYER: Kenster Tri-State & Company
 DATE: Feb. 24, 1983
 APPEAL NO.: 01302
 S. S. NO.:
 L. O. NO.: 1
 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 FURTHER APPEAL

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAYBE 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON March 11, 1983

- APPEARANCES -

FOR THE CLAIMANT: Present
 FOR THE EMPLOYER: Submitted Affidavit

FINDINGS OF FACT

The claimant was employed by Kenster Tri-State & Company on April 9, 1982. He worked as a construction worker. He earned \$6.50 an hour.

The claimant worked one day at Kenster Tri-State & Company and drove his 1976 Buick on the job that day. However, on that following day, the claimant's automobile had engine problems and he could not get to work. The claimant did not have any other means of transportation to get to the job site, which was located approximately 50 miles away from his home. The claimant's reason for leaving his employment at Kenster Tri-State & Company was due to the reason of lack of transportation to get to the job site.

CONCLUSIONS OF LAW

The claimant voluntarily quit his employment at Kenster Tri-State & Company because he lacked his own transportation to get to the job site. The job was approximately 50 miles from where he lived and he did not know of any other type of public transportation to get to the job site. The claimant's reason for leaving his employment at Kenster Tri-State & Company does not constitute good cause within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law.

There existed no valid circumstances to warrant less than the maximum penalty allowed by Law. Transportation to and from a job site is the responsibility of the claimant and not that of the employer. Therefore, the determination of the Claims Examiner will be modified and affirmed accordingly.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. A disqualification is imposed from the week beginning April 4, 1982, and until the claimant becomes reemployed, and earns ten times his weekly benefit amount (\$870) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is modified and affirmed accordingly.


Marvin Y. Pazornick
Appeals Referee

Date of hearing: Feb. 15, 1983
jlt
(891B-Merryman)

Copies mailed to:
Claimant
Employer
Unemployment Insurance - Baltimore