

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.:	675-BR-88	
	Date:	August 5 , 1988	
Claimant:	Merlene M. Smith	Appeal No.:	8805286
		S. S. No.:	
Employer:	A P G Inc.	L. O. No.:	1
		Appellant:	EMPLOYER

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 MAYBE 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT September 4, 1988

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner.

The Board adopts the Findings of Fact of the Hearing Examiner.

Based on these findings, the Board concludes that the claimant did not voluntarily quit her job within the meaning of Section 6(a) of the law. The term "leaving work" does not encompass a temporary interruption in the performance of services caused by a leave of absence. Muller v. Board of Education (144-BH-83). Although exceptions have been made in certain cases. e.g. Brown v. State of Maryland (356-BR-82) (three-year leave of absence, where the job would not be held open, constitutes a voluntary quit), Banning v. Eastern Shore Hospital Center (396-BH-84) (deliberate choice to take a certain type of leave of absence for the purpose of having the employer fill the job), the general rule is that taking a leave of absence does not trigger a disqualification under Section 6(a) of the law. Savage v. Church Hospital (1067-BH-83).

A penalty under Section 4(c) of the law, however, should be applied where a claimant removes herself from the job pursuant to a voluntary leave of absence. Muller, supra Mahon v. I.U.M.S.W.A. (100-BR-84); Manacher v. Maryland Office on Aging (782-BR-84). In such a circumstance, the person is not "available for work" within the meaning of Section 4(c) of the law until the expiration of the leave.

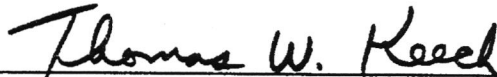
The claimant, therefore, should not be disqualified under Section 6(a) of the law but should be disqualified under Section 4(c) from the beginning of her leave of absence, April 11, 1988, and until she is available for work. As long as she remains on a voluntary leave of absence, she is not available for work.

DECISION

The claimant did not voluntarily quit her job within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. No penalty imposed under Section 6(a) of the law.

The claimant was not available for work within the meaning of Section 4(c) of the law. She is disqualified from benefits from April 11, 1988 and until she is available for work and meeting all the requirements of Section 4(c) of the law.

The decision of the Hearing Examiner is reversed.


Chairman


Associate Member

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE

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

STATE OF MARYLAND
William Donald Schafer
Governor

- DECISION -

Date: Mailed: June 13, 1988

Claimant: Merlene M. Smith

Appeal No: 8805286

S.S.No.:

Employer: A P G, Inc.

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 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON

June 28, 1988

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:

FOR THE EMPLOYER:

Merlene M. Smith - Claimant

Not Represented

FINDINGS OF FACT

The claimant was employed from March 24, 1987 through April 11, 1988 as a clerical screener for the employer. She was full-time at the rate of \$6.00 an hour. The claimant was forced to leave her employment because of pregnancy. She worked as long as possible, and her doctor at Mercy Hospital indicated that she should stop working because she was thirty-seven weeks into her pregnancy and advised bedrest for the remainder of her pregnancy and until six weeks' post partum. The claimant is present with her child at this hearing and indicates to me that she remains unable to return return to work.


CONCLUSIONS OF LAW

The preponderance of the credible evidence demonstrates that the claimant formulated the requisite intent to separate from the employment voluntarily, without good cause attributable to the actions of the employer or the conditions of the employment. However, the evidence shows substantial cause so as to constitute a valid circumstance supporting a reduced disqualification as provided for in Article 95A, Section 6(a).

DECISION

It is held that 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. She is disqualified from receiving benefits from the week beginning April 10, 1988 and the five weeks immediately following.

The determination of the Claims Examiner is hereby reversed.


Judy Lynn Goldenberg
Hearing Examiner

Date of hearing: 6/9/88.
amp/Specialist ID: 01035
Cassette No. 8805286
Copies mailed on June 13, 1988 to:

- Claimant
- Employer
- Unemployment insurance - Baltimore (MABS)