



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.:	71-BH-90
	Date:	January 25, 1990
Claimant: Pamela DuBois	Appeal No.:	8909554
	S. S. No.:	
Employer: Redden & Rizk, P.A. ATTN: Miller Redden, Esq.	L O. No.:	43
	Appellant:	CLAIMANT
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law; whether the claimant was discharged for misconduct, connected with her work, within the meaning of Section 6(c) 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON February 24 , 1990

— APPEARANCES —

FOR THE CLAIMANT:

Pamela DuBois, Claimant
Daniel DuBois, Claimant's Husband

FOR THE EMPLOYER:

Employer not
represented

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 Redden and Rizk, P.A. from July 2, 1986 until May 31, 1989, as a receptionist. The claimant went on an authorized maternity leave on April 21, 1989. At the time the claimant went on her maternity leave, she fully intended to return to work. In fact, she had had conversation with Mr. Redden in which she expressed her intent and belief that she would be able to return to work within two weeks of the delivery of her child.

The claimant delivered her child on May 11, 1989. However, it was necessary for the baby to be delivered by a Caesarean section. Due to the unexpected medical surgery, the claimant was not able to return to work at the end of May as she had planned.

On May 12, 1989, the claimant contacted her employer to inform him that she would not be able to return to work in two weeks. She explained that she would have to wait and see what her doctor said about when she would be able to return to work. The employer said that he may or may not be able to hold her job. However, it was clear that the claimant did intend to return to her job.

On May 31, 1989, the claimant again contacted her employer to inform him that her doctor had told her she would not be able to return to work until her six-week check-up. At that time, the employer told her he could no longer hold her job.

CONCLUSIONS OF LAW

The claimant was terminated from her employment with Redden & Rizk, P.A., but not for any misconduct, as defined in Sections 6(b) and 6(c) of the Maryland Unemployment Insurance Law. The claimant had been out from work on an authorized maternity leave. Due to unexpected medical complications, which necessitated the delivery of her child by a Caesarean section, the claimant was not able to return to work as early as she had anticipated. The claimant kept her employer informed of her medical condition, and as soon as she knew when she would be able to work, she called in and informed her employer of the same.

Absenteeism due to illness does not amount to misconduct or gross misconduct within the law.

The facts of this case also do not amount to a voluntary quit on the part of the claimant. The claimant's testimony and actions make it abundantly clear that she did not intend to quit her job and that she fully intended to return to work as soon as she was medically able to do so.

DECISION

The claimant was separated from her employment with Redden & Rizk, P.A. due to no misconduct or gross misconduct connected with the work, as defined in Section 6(b) and 6(c) of the law. No disqualification shall be imposed against the claimant for her separation from work from this employer.

The decision of the Hearing Examiner is reversed.



Associate Member



Associate Member

DW:W

kbm

Date of Hearing: December 5, 1989

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WHEATON

 **Maryland**
**Department of Economic &
Employment Development**

William Donald Schaefer
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1100 North Eutaw Street
Baltimore, Maryland
21201

(301) 333-5040

- DECISION -

Claimant: Pamela J. Dubois

Mailed: 8/31/89

Date: 8909554-EP

Decision No.:

S.S.No.

Employer: Redden & Rizk, PA

L.O.No: 4 3

Appellant: Employer

Issue: Whether the claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) 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.

9/15/89

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Not Present

Miller Redden,
Attorney At Law

FINDINGS OF FACT

The claimant had been employed by Redden & Rizk, PA, from July 2, 1986 to May 31, 1989, as a Receptionist. The claimant was on an authorized maternity leave of absence from April 21, 1989 to June 1, 1989.

On May 31, 1989, the claimant informed Redden & Rizk, PA, that she was resigning from her employment with the company. Redden & Rizk PA, had work available for the claimant on May 31, 1989.

CONCLUSIONS OF LAW


The claimant advised Redden & Risk, PA, on May 31, 1989, that she was resigning her employment with the company. There was work available for the claimant on May 31, 1989. The claimant's reason for leaving the employment does not constitute good cause for leaving work within the meaning of Section 6(a) of the Law.

There exist no valid circumstances present to warrant less than the maximum penalty allowed by Law.

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. Benefits are denied for the week beginning May 28, 1989 and until the claimant becomes re-employed and earns at least ten times her weekly benefit amount (\$2,050) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is reversed.



Marvin I. Pazornic
Hearing Examiner

Date of hearing: 8/22/89

rc

(7301-B)-Specialist ID: 43723

Copies mailed on 8/31/89 to:

Claimant

Employer

Unemployment Insurance - Wheaton - MABS