



DEPARTMENT OF EMPLOYMENT AND TRAINING

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5032

STATE OF MARYLAND

HARRY HUGHES
Governor

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Decision No.: 718-BH-84

Date August 21, 1984

Claimant: Marlyn Hill

Appeal No.: 13421, FSC-87,
EB-991

S. S. No.:

Employer: Whitey & Dots

LO. No.: 40

Appellant REMAND FROM
COURT

Issue:

Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §6(a) of the law; whether the claimant is eligible for Federal Supplemental Compensation benefits within the meaning of §21(i); whether the claimant is eligible for extended unemployment benefits within the meaning of 521(i); whether the claimant was able, available, and actively seeking work within the meaning of §4(C); and whether the claimant's failure to file a timely and valid appeal was for good cause within the meaning of §7(c) (ii) 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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON September 20, 1984

— APPEARANCES —

FOR THE CLAIMANT

FOR THE EMPLOYER:

Marlyn Hill, Claimant;
Richard Waldt, Attorney

Department of Employment & Training
John Roberts - Special Counsel

#### 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 the Department of Employment and Training's documents in the appeal file.

#### FINDINGS OF FACT

The Board of Appeals makes the following Findings of Fact, based on the entire record in this case.

The claimant was employed as a cook at Whitey and Dots Restaurant. Her job was to prepare food and also to stock the kitchen. This latter occupation required her to carry stock into the kitchen weighing up to fifty pounds. The claimant had also worked at the same establishment in the capacities of bartender and waitress. She also had work experience as a cashier, a payroll clerk, and an accounting clerk. She is able to type.

The claimant was pregnant, and as a direct result of this pregnancy, she became unable to perform her job of cook at Whitey and Dots Restaurant on August 7, 1981. She was told by her employer that she could return to her job after the baby was born. The claimant then began an active search for various other types of work for which she was qualified by her experience. The claimant's doctor had stated that she could continue to work at a less demanding position. On about September 18, 1981, however, the claimant's pregnancy became so advanced that she stopped looking for work. Her baby was born on September 25, 1981 and she was incapacitated for approximately another six weeks. After that time, she attempted to return to work at her former employer's but was informed that work was slow and she would not be rehired. At that point, she attempted to find other employment.

#### CONCLUSIONS OF LAW

The Board adopts the previous Conclusions of Law in Decision No. 153-BR-83 with regard to whether the claimant had good cause for filing a late appeal of her disqualification, under §7(c) (ii) of the law.

With regard to §6(a) of the law, the Board of Appeals reverses its previous decision and finds that the claimant's reason for separation from employment, although not good cause within the meaning of §6(a) of the law, nevertheless cannot be used as a reason to disqualify her from benefits under the Federal law, 26 USC §3304(a) (12) as interpreted by the United States Court of Appeals for the Fourth Circuit in Brown v. Porcher, 660 F.2d

1001 (1981). No disqualification will therefore be imposed for the claimant on the basis of the reason for her separation from work.

Concerning the requirements of §4(c) of the law, the Board of Appeals modifies this decision on this issue. The claimant was able to work at a wide range of jobs for which she was qualified up until September 18, 1981. After that time, she became medically unable to work for seven weeks. After that time, she was again able to work. For this reason, the dates of the disqualification under §4(c) of the law will be changed.

Since the claimant is no longer disqualified under §6(a) of the law, based on her reason for leaving Whitey and Dots Restaurant, the concomitant disqualification under §21(i) of the law from receiving Federal Supplemental Compensation benefits and Extended Benefits will be reversed.

#### DECISION

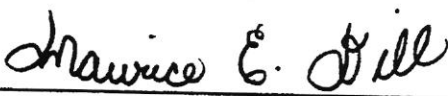
The claimant had good cause for filing her appeal late within the meaning of §7(c) (ii) of the law.

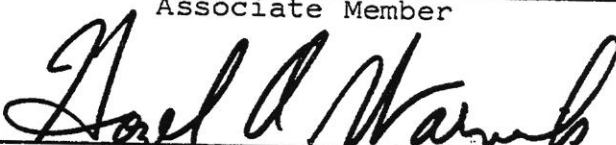
No disqualification is imposed on the claimant within the meaning of §6(a) of the Maryland Unemployment Insurance Law based on her separation from employment with Whitey and Dots.

The claimant was able, available and actively seeking work within the meaning of §4(c) of the law with the exception of the seven-week period beginning on September 18, 1981. Benefits are denied from September 18, 1981 and the seven weeks thereafter.

The claimant was not disqualified, under §21(i) of the law, from receiving Extended Benefits or Federal Supplemental Compensation. The Board's previous decisions in cases EB-991 and FSC-87 are reversed.

  
Chairman

  
Associate Member

  
Associate Member

Date of Hearing: August 7, 1984

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Rosen, Esterson & Friedman

UNEMPLOYMENT INSURANCE - EASTPOINT



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

383-5032

- DECISION -

STATE OF MARYLAND

HARRY HUGHES  
Governor

KALMAN R. HETTLEMAN  
Secretary

BOARD OF APPEALS

THOMAS W KEECH  
Chairman

HAZEL A WARNICK  
MAURICE E DILL  
Associate Members

SEVERN E LANIER  
Appeals Counsel

DECISION NO.: 153-BR-83

DATE: February 10, 1983

APPEAL NO.: 13421, EB-991  
& FSC-87

S. S. NO.:

CLAIMANT: Marilyn D. Hill

EMPLOYER: Whitey & Dots

L. O. NO.: 40

APPELLANT: CLAIMANT

ISSUE

Whether the Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of § 6(a) unemployment benefits within the meaning of § 21 (i) of the Law; whether the Claimant is eligible for Federal Supplemental Compensation benefits within the meaning of § 21(k) of the Law; whether the Claimant was able, available and actively seeking work within the meaning of § 4(c) of the Law; and whether the Claimant's failure to file a timely and valid appeal was for good cause within the meaning of § 7(c) (ii) 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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT

March 12, 1983

-APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

The Board of Appeals hereby consolidates cases no. 13421, Ei3-991 and FSC-87.

The Board of Appeals affirms the Referee's decision that the Claimant did have good cause for filing a late appeal of Case No. 13421. See, the Board's Decision in the Miller and Slechta cases, Board Decision Nos. 465-BR-82 and 466-BR-82.

Regarding the merits of the case, the Board of Appeals affirms the decision of the Appeals Referee under § 6(a) of the Law in appeal no. 13421. The Claimant's reason for leaving work, that she was unable to continue to fulfill the duties of her job due to her pregnancy, are not good causes within the meaning of § 6(a) of the Maryland Unemployment Insurance Law. Due to the compelling nature of her reasons for leaving the employment, however, the Board agrees with the Appeals Referee that the valid circumstances do exist in this case. These circumstances justify the imposition of less than the maximum penalty in this case.

The Board of Appeals affirms the decision of the Appeals Referee as regards to § 4(c) of the Maryland Unemployment Insurance Law, at least as far as it relates to the weeks between August 30, 1981 and September 30, 1981. Since the reason for this disqualification is only the Claimant's inability to perform a full range of work due to her pregnancy, common sense tells us that it was inappropriate for the Appeals Referee to extend this particular disqualification until after December 10, 1982. The disqualification under § 4(c) of the Law, therefore, will be terminated as of September 30, 1981.

This denial of benefits for a specified number of weeks, in case no. 13421, results in ineligibility, under § 21(i) of the Maryland Unemployment Insurance Law, for Extended Benefits and Federal Supplemental Compensation. The Appeals Referee's decisions in cases no. EB-991 and FSC-87 are affirmed.

#### DECISION

The Claimant had good cause for filing her appeal late within the meaning of § 7(c) (ii) of the Law.

The Claimant voluntarily quit her job, without good cause, within the meaning of § 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits for the week beginning August 2, 1981 and the nine weeks immediately following.

The decision of the Appeals Referee as to § 6(a) of the Law is affirmed.

The Claimant was not able, available and actively seeking work within the meaning of § 4(c) of the Maryland Unemployment Insurance Law. Benefits are denied from August 30, 1981 until September 30, 1981.

The decision of the Appeals Referee as regard to § 4(c) of the Law is modified.

This denial of benefits for a specified number of weeks, in case no. 13421, results in ineligibility, under § 21(i) of the Maryland Unemployment Insurance Law, for Extended Benefits and Federal Supplemental Compensation. The Appeals Referee's decisions in cases no. EB-991 and FSC-87 are affirmed.

*Thomas W. Keech*  
\_\_\_\_\_  
Chairman

*Maurice E. Hill*  
\_\_\_\_\_  
Associate Member

K:D  
zs

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT