

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L Wasserman, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: (410) 333-5032

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

*NOTE CORRECTION ON PAGE #4, UNDER DECISION.
5/6/93, kbm

— DECISION —

Decision No.:	767-BH-93
Date:	April 30, 1993
Claimant:	Debra E. Arnold
Appeal No.:	9225509
S. S. No.:	
Employer:	Friends Lifetime Care Balto. c/o The Gibbens Company
L. O. No.:	9
Appellant:	EMPLOYER
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of §8-1001 of the Labor and Employment Article.

— 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

May 30, 1993

— APPEARANCES —

FOR THE CLAIMANT:

Debra Arnold - Claimant

FOR THE EMPLOYER:

Christopher Pfeltz -
ADP;
Jody Hayes - Witness
Ms. Willetts -
Witness

EVALUATION OF THE 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 for approximately 17 months for Friends Lifetime Care, a retirement home in Baltimore County. She was an activities coordinator, earning \$7.90 an hour. She worked from June of 1991 until November 6, 1992.

The claimant was an activities coordinator for the employer's elderly population. Most of the patients suffered from physical or mental handicaps due to problems such as Alzheimer's Disease or physical problems resulting from their age. The claimant's job included coordinating the entertainment activities and bringing the patients to the area where the activities were held. This included a lot of bending, because she often had to help the patients in and out of a bus or in and out of chairs because of their physically impaired condition and constant need. She also had to lift wheelchairs onto the buses on occasion.

She missed about two days of work in October of 1991 because she hurt her back doing this bending and pulling. After that time, the claimant developed chronic back pain which may or may not have been caused by the employment, but which was definitely aggravated by the employment.

When the claimant's back pain was worse, the employer would attempt to accommodate her problems for short periods of time. For short periods of time, the claimant would not be required to do the lifting, and these duties would be shifted to others. The claimant's back pain recurred, however, each time that she was returned to her regular duties.

The claimant was a good employee and did her duties to the best of her ability. In addition to her physical problems, however, she felt emotional stress from dealing with elderly, sick and demanding patients, especially since this was not the type of work she had done before.

The claimant eventually quit because of the physical pain and emotional stress of her position, and because she believed that she had obtained an office job which would allow her to return to the type of work she had done previously.

The claimant did briefly contact her employer's Employee Assistance Program with respect to her problems, but her first appointment coincided with the night shift that she was asked to take, and she decided to seek help from her private doctor instead. A transfer to other jobs was theoretically available, but no job within the claimant's capabilities was offered to her, nor did she become aware of any possibilities for such a transfer that existed.

CONCLUSIONS OF LAW

The claimant's back problems were aggravated by the conditions of her employment. She has a "valid circumstance" for leaving the employment because she was left with no reasonable alternative other than to quit. The claimant's condition does not amount to "good cause" because there is no evidence that the duties of her position were any more onerous than would normally be expected in such a job. The claimant's medical problem, therefore, must be considered as a personal reason, which cannot amount to good cause but may amount to a valid circumstance.

One of the requirements for a valid circumstance is that the employee must have no reasonable alternative other than quitting. No realistic alternative appears in this record. The possibility of a transfer was purely theoretical. In addition, although the claimant's duties were sometimes temporarily changed, the Board has no doubt that the claimant would be required, as any employee would, eventually to fulfill the full duties of her position. She could not expect her employer to have other employees perpetually perform her most onerous duties.

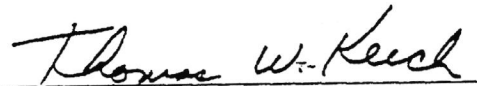
It is true that a desire for a career change or for a different type of work is not either a good cause or a valid circumstance for leaving work. This is not, however, a case of a simple career change. The claimant was seeking another type of work simply because her medical condition made it impossible for her to continue in this type of work. The Board found the claimant's testimony "credible" that she is a conscientious person. She simply found that she could not manage to perform the duties of her position due to her own

personal medical problems, and felt that she had no alternative but to quit.

DECISION

* The claimant left work voluntarily, without good cause but with valid circumstances within the meaning of §8-1001 of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits for the week beginning November 1, 1992 and the four weeks immediately following.

The decision of the Hearing Examiner is affirmed.


Chairman


Associate Member


Associate Member

K:W:W

kbm

Date of Hearing: April 20, 1993

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - TOWSON

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (410) 333-5032

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

— DECISION —

Decision No.:	767-BH-93
Date:	April 30, 1993
Claimant: Debra E. Arnold	Appeal No.: 9225509
	S. S. No.:
Employer: Friends Lifetime Care Balto. c/o The Gibbens Company ATTN: Christopher Pfeltz	L. O. No.: 9
	Appellant: EMPLOYER
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of §8-1001 of the Labor and Employment Article.

— 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

May 30, 1993

— APPEARANCES —

FOR THE CLAIMANT:

Debra Arnold - Claimant

FOR THE EMPLOYER:

Christopher Pfeltz -
ADP;
Jody Hayes - Witness
Ms. Willetts -
Witness

EVALUATION OF THE 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 for approximately 17 months for Friends Lifetime Care, a retirement home in Baltimore County. She was an activities coordinator, earning \$7.90 an hour. She worked from June of 1991 until November 6, 1992.

The claimant was an activities coordinator for the employer's elderly population. Most of the patients suffered from physical or mental handicaps due to problems such as Alzheimer's Disease or physical problems resulting from their age. The claimant's job included coordinating the entertainment activities and bringing the patients to the area where the activities were held. This included a lot of bending, because she often had to help the patients in and out of a bus or in and out of chairs because of their physically impaired condition and constant need. She also had to lift wheelchairs onto the buses on occasion.

She missed about two days of work in October of 1991 because she hurt her back doing this bending and pulling. After that time, the claimant developed chronic back pain which may or may not have been caused by the employment, but which was definitely aggravated by the employment.

When the claimant's back pain was worse, the employer would attempt to accommodate her problems for short periods of time. For short periods of time, the claimant would not be required to do the lifting, and these duties would be shifted to others. The claimant's back pain recurred, however, each time that she was returned to her regular duties.

The claimant was a good employee and did her duties to the best of her ability. In addition to her physical problems, however, she felt emotional stress from dealing with elderly, sick and demanding patients, especially since this was not the type of work she had done before.

The claimant eventually quit because of the physical pain and emotional stress of her position, and because she believed that she had obtained an office job which would allow her to return to the type of work she had done previously.

The claimant did briefly contact her employer's Employee Assistance Program with respect to her problems, but her first appointment coincided with the night shift that she was asked to take, and she decided to seek help from her private doctor instead. A transfer to other jobs was theoretically available, but no job within the claimant's capabilities was offered to her, nor did she become aware of any possibilities for such a transfer that existed.

CONCLUSIONS OF LAW

The claimant's back problems were aggravated by the conditions of her employment. She has a "valid circumstance" for leaving the employment because she was left with no reasonable alternative other than to quit. The claimant's condition does not amount to "good cause" because there is no evidence that the duties of her position were any more onerous than would normally be expected in such a job. The claimant's medical problem, therefore, must be considered as a personal reason, which cannot amount to good cause but may amount to a valid circumstance.

One of the requirements for a valid circumstance is that the employee must have no reasonable alternative other than quitting. No realistic alternative appears in this record. The possibility of a transfer was purely theoretical. In addition, although the claimant's duties were sometimes temporarily changed, the Board has no doubt that the claimant would be required, as any employee would, eventually to fulfill the full duties of her position. She could not expect her employer to have other employees perpetually perform her most onerous duties.

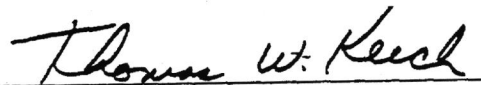
It is true that a desire for a career change or for a different type of work is not either a good cause or a valid circumstance for leaving work. This is not, however, a case of a simple career change. The claimant was seeking another type of work simply because her medical condition made it impossible for her to continue in this type of work. The Board found the claimant's testimony credible that she is a conscientious person. She simply found that she could not manage to perform the duties of her position due to her own

personal medical problems, and felt that she had no alternative but to quit.

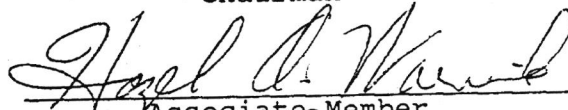
DECISION

The claimant left work voluntarily, without good cause but with valid circumstances within the meaning of §8-1001 of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits for the week beginning December 1, 1992 and the four weeks immediately following.

The decision of the Hearing Examiner is affirmed.



Chairman



Associate Member



Associate Member

K:W:W

kbm

Date of Hearing: April 20, 1993

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - TOWSON

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Gary W. Wiedel, Administrator
Louis Wm. Steinwedel, Chief Hearing Examiner

Room 501
1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: (410) 333-5040

— DECISION —

Date: Mailed 1/18/93
Claimant: Debra E. Arnold Appeal No.: 9225509
S. S. No.:
Employer: Friends Life Time Care Balto. L. O. No.: 09
c/o Gibbens Co. Appellant: Claimant

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of MD Code, Labor and Employment Article, Title 8, Section 1001.

— 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

February 2, 1993

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES ON
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:

PRESENT

FOR THE EMPLOYER:

NOT REPRESENTED

FINDINGS OF FACT

The claimant was employed by Friends Lifetime Care at a retirement home in Baltimore County from June 24, 1991 until November 6, 1992. The claimant was the activities coordinator earning \$7.90 an hour.

The claimant worked from 8:30 a.m. to 5:00 p.m. and on weekends. The claimant is thirty-seven years old and has had fifteen years' experience in office and administrative type work. The claimant left this employment because she felt she could not work with sick, old people as this was draining the energy out of her and she was emotionally tired all of the time.

The claimant complained of backaches presented medical statements from her physician advising her that this type of work overstressed her back. She was advised not to engage in work that required lifting, carrying or repeated bending at the waist. Her physician stated that her job did not cause the condition, it worsened it.

The employer reported that the claimant quit for another job.

CONCLUSIONS OF LAW

Medical Documentation (6ak08)

Section 6(a) of the Law (now Section 8-1001 of the Maryland Unemployment Insurance Law) provides that "if the individual leaves his employment because of a circumstance relating to the health of the individual or another person who must be cared for by the individual, the individual must furnish a written statement or other documentary of that health problem from a physician or hospital."

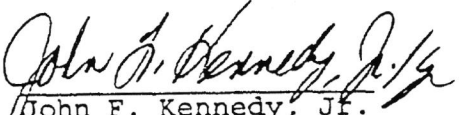
In this case, although the claimant was upset with the type of work that she was doing, nevertheless, she has not provided any medical statements from a physician or hospital describing any medical condition which caused or contributed to her leaving this employment.

It is concluded that the claimant had valid circumstances for leaving her employment.

DECISION

It is held that the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of the Maryland Unemployment Insurance Law, Title 8, Section 1001. The claimant is disqualified for the week beginning November 1, 1992 and the four weeks immediately following.

The determination of the Claims Examiner is modified accordingly.


John F. Kennedy, Jr.
HEARING EXAMINER

DATE OF HEARING: 12/28/92
Specialist ID: 09650
gr/CASSETTE IN FILE

COPIES MAILED ON 1/18/93 TO:

Claimant
Employer
Unemployment Insurance - Towson (MABS)