

 **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.:	770-BR-90	
	Date:	August 3, 1990	
Claimant:	Sherriynn Bond	Appeal No.:	9006344
		S. S. No.:	
Employer:	Rosewood Center c/o Dept. of Personnel ATTN: E. L. Walston	L O. No.:	45
		Appellant:	EMPLOYER

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 gross misconduct or misconduct, connected with her work, within the meaning of Section 6(b) or 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 MARYLAND IN WHICH YOU RESIDE.

September 3, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— 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 concludes that the claimant voluntarily quit her job, without good cause, within the meaning of Section 6(a) of the law.

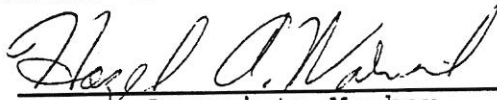
Both the claimant and the employer stated unequivocally that the claimant quit her job. The claimant quit due to personal reasons. There is absolutely no basis for the Hearing Examiner's finding that the claimant resigned in lieu of discharge.

The claimant's reason for leaving was due to the unexpected loss of her babysitter. The claimant attempted to find another sitter but to no avail. She also requested a leave of absence, but was not eligible for one because she was a contractual employee. Since the claimant quit for a personal reason, she cannot be found to have quit for good cause within the meaning of Section 6(a). However, the Board concludes that the claimant's reason for quitting was a cause of such a necessitous nature that she had no reasonable alternative other than to leave. This is a valid circumstance within the meaning of Section 6(a), warranting only a partial disqualification.

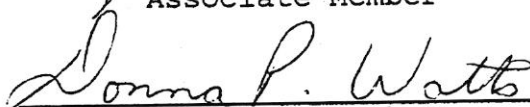
DECISION

The claimant left 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 February 18, 1990 and the nine weeks immediately following.

The decision of the Hearing Examiner is reversed.



Associate Member



Associate Member

HW:W

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - NORTHWEST

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

Date: Mailed: June 6, 1990
Appeal No.: 9006344
S. S. No.:
Employee: Rosewood Center 321302 45
Appellant: Claimant

Issue: Whether the unemployment of the claimant 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE MARYLAND 21201, EITHER IN PERSON OR BY MAIL

June 21, 1990

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Sherriynn Bond - Claimant

E.L. Walston,
Personnel
Administrator

FINDINGS OF FACT

Ms. Bond, the claimant became unemployed on February 24, 1990 and applied for benefits. The Claims Examiner determined that she voluntarily quit, without good cause or valid circumstances and the maximum penalty was imposed. The claimant appealed.

The employer provides care for the handicapped. From July 26, 1989 to February 24, 1990, the claimant was employed as a contractual direct care trainee. During the week of February 24, 1990, the claimant learned that her mother-in-law, who was also her babysitter, had to have emergency surgery.

The claimant could not find another babysitter. She informed her supervisor and inquired about a leave of absence. She was told that as a contractual employee, she could not take a leave of absence. She could either resign or be discharged. She resigned in lieu of discharge.

CONCLUSIONS OF LAW

When a claimant resigns in lieu of discharge the issue is resolved as a discharge under Section 6(b) or 6(c) rather than a voluntary quit under Section 6(a). Miller v. William T. Burnett co., 442-BR-82.

Article 95A, Section 6(c) provides for disqualification from benefits where a claimant is discharged for actions which constitute a transgression of some established rule or policy of the employer, a forbidden act, a dereliction of duty or a course of wrongful conduct committed within the scope of the employment relationship, during hours of employment or on the employer's premises. The preponderance of the credible evidence in the instant case will support a conclusion that the claimant's actions do not rise to the level of misconduct within the meaning of the Statute.

Furthermore, to disqualify a claimant under 6(a), the evidence must establish that the claimant by his or her own choice, intentionally of his or her own free will, terminated the employment. Allen v. CORE Target City Youth Program, 275 Md. 69, 338 A. 2d 227 (1975). In this case, the claimant did not desire or intend to resign. She desired to take a leave of absence. She was told that she could either resign or be discharged because she was a contractual employee.


DECISION

The determination of the Claims Examiner is reversed.

The claimant was discharged but not for gross misconduct or misconduct connected with the work, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based on her separation from employment with Rosewood Center.

The determination denying benefits from February 18, 1990 and until the claimant becomes re-employed, earns at least ten times her weekly benefit amount (\$1550) is rescinded.

The claimant may contact the local office about the other eligibility requirements of the Law.


Van D. Caldwell
Hearing Examiner

Date of Hearing: May 21, 1990
bch/Specialist ID: 45536
Cassette No: 7000
Copies mailed on June 6, 1990 to:

Claimant
Employer
Unemployment Insurance - Northwest (MABS)