



**DEPARTMENT OF EMPLOYMENT AND TRAINING**

**BOARD OF APPEALS  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201**

**(301) 383-5032**

**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

**STATE OF MARYLAND**

HARRY HUGHES  
Governor

**— DECISION —**

Decision No.:

771 -BH-86

Date:

Sept. 29 , 1986

Appeal No.:

8603437

S. S. No.:

Claimant:

Sherman Braxton

L.O. No.:

1

Appellant:

EMPLOYER

Employer:

B.S.I. Temporaries, Inc.

Issue:

Whether the claimant failed, without good cause, to apply for or to accept an offer of available, suitable work under Section 6(d) 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.

October 29, 1986

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

**— APPEARANCES —**

FOR THE CLAIMANT:

NOT PRESENT

FOR THE EMPLOYER:

Corine Jones,  
Admin. Asst.,  
Frederick N. Mattis,  
U.I. Consultant

### 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 into this case, as well as Department of Employment and Training's documents in the appeal file.

The Board notes that the claimant failed to appear and present evidence at the hearing before the Hearing Examiner and before the Board of Appeals.

### FINDINGS OF FACT

The claimant filed for unemployment insurance benefits and was determined to be eligible for \$81 a week, effective with the benefit year beginning February 2, 1986. The claimant had prior experience working for BSI Temporaries, a temporary employment agency, as a laborer and warehouseman earning approximately \$4.00 per hour.

On or about February 21, 1986, the employer offered the claimant a long-term temporary assignment at the Sherwin Williams Paint Company as a warehouseman, at the rate of \$4.25 per hour. Although this was the same type of work that he had previously done for BSI Temporaries, and reflected an increase in pay of \$.25 per hour, the claimant refused the job offer, stating only that he was expecting to go back sometime soon to a full-time job. The claimant did not offer any further specifics with regard to this full-time job to the employer. Although BSI Temporaries was offering a long-term assignment, the claimant could have worked at it for several weeks and then resigned when and if his full-time job materialized. However, the claimant failed to do this and failed to even inquire whether such an arrangement was possible.

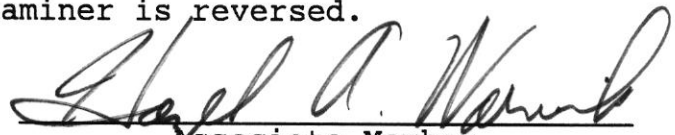
### CONCLUSIONS OF LAW

The Board of Appeals concludes that the claimant refused an offer of available, suitable work, without good cause within the meaning of Section 6(d) of the Law. Unlike the Hearing Examiner who heard the case initially, the Board does not find this to be a difficult situation. There is clear, un rebutted testimony that an offer of available, suitable work was presented to the claimant, who refused it. The burden then shifts to the claimant to show that he had good cause for such refusal. The claimant has failed to meet this burden. Therefore, the Board concludes that the claimant has clearly not met the requirements of Section 6(d) of the Law and the maximum penalty is warranted.

DECISION

The claimant failed, without good cause, to accept available, suitable work within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning February 16, 1986 and until he becomes reemployed, earns at least ten times his weekly benefit amount (\$810.00) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.

  
Associate Member

  
Chairman

W:K

jol

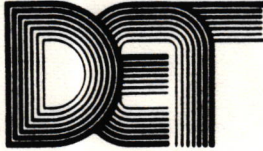
COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE

Frederick N. Mattis



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

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Appeals Counsel

MARK R. WOLF  
Chief Hearing Examiner

— DECISION —

Date: Mailed May 14, 1986

Claimant: Sherman Braxton Appeal No.: 8603437-EP

S. S. No.:

Employer: BSI Temporaries, Incorporated L.O. No.: 01

Appellant: EMPLOYER

Issue: Whether the claimant failed, without good cause, to apply for or to accept an offer of available, suitable work under Section 6 (d) of the Law.

Whether appealing party filed a timely appeal, or had good cause for an appeal filed late under Section 7(c)(ii) of the Law.

— NOTICE OF RIGHT TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON May 29, 1986

— APPEARANCES —

FOR THE CLAIMANT:

NOT PRESENT

FOR THE EMPLOYER:

Represented by Fred N. Mattis, Unemployment Insurance Consultant; and Maureen Jones, Administrative Assistant

FINDINGS OF FACT

A Benefit Determination dated March 6, 1986 provided that the claimant had refused available, suitable work with good cause and applied no disqualification. The Benefit Determination provided that the parties had until March 21, 1986 to file an appeal, and the appellant/employer's appeal was filed on that date.

The record shows that the claimant had previously worked on assignment from the appellant/employer in this case. He had last performed such services on August '2, 1985 and was offered work on February 21, 1986, but refused because of his expected return to full-time employment.

The evidence shows that it was a condition of temporary or contractual employment with this employer that employees call in daily or at least two times a week. The claimant failed to meet this requirement. Subsequently, the claimant was called by the employer, and offered a job assignment, but refused for the above stated reason.

#### CONCLUSIONS OF LAW

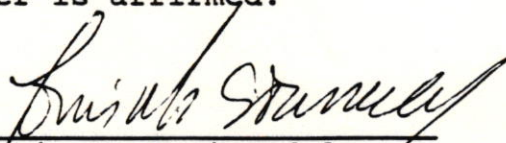
This case presents a difficult situation in view of the failure of the claimant to appear to offer testimony. The circumstances of the claimant's new, full-time employment and its expected start up date are significant in this case, but, conspicuous by their absence. If the claimant's new, full-time employment was to begin within a short time following the offer of employment on February 21, 1986, it would be reasonable for the claimant to refuse the job offer of temporary employment in favor of full-time employment and the refusal would be with good cause as determined by the Claims Examiner. The certainty of expectation of the new employment is also a factor in the equation, which is also unknown. In considering all of the aspects of the case, and in view of the fact that the Claims Examiner who interviewed the claimant was in a better position to gather relevant information on these points, the determination of the Claims Examiner shall be affirmed.

#### DECISION

The appellant/employer filed a timely appeal within the meaning and intent of Section 7 (c)(ii) of the Maryland Unemployment Insurance Law.

The claimant refused an offer of available, suitable work, with good cause, within the meaning of Section 6 (d) of the Law. No disqualification is provided.

The determination of the Claims Examiner is affirmed.

  
Louis W. Steinwedel  
SENIOR HEARINGS EXAMINER

DATE OF HEARING - 4/9/86  
cd  
2423/Lancaster

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Claimant  
Employer  
Unemployment Insurance - Baltimore

Frederick N. Mattis