

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033



William Donald Schaefer, Governor
J. Randall Evans, Secretary

BOARD OF APPEALS

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

— DECISION —

Decision No.: 830-BR-88

Date: Sept. 13, 1988

Claimant: Mark Tuck

Appeal No: 8805834

S. S. No.:

Employer:

L. O. No.: 15

Appellant: CLAIMANT

Issue: Whether the claimant failed, without good cause, to apply for or accept an offer of available, suitable work within the meaning of 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, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

October 13, 1988

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 and concludes that the claimant did not refuse suitable work offered to him,

within the meaning of Section 6(d) of the law. Therefore, no penalty is appropriate.

The undisputed evidence is that the claimant was a carpenter mechanic who was earning in excess of \$12.00 an hour at the time of his separation from employment on or about April 22, 1988. Approximately three weeks later, on his own initiative, he inquired about work at Westminster Kitchens. However, the job which was offered him, turned out to be as a carpenter's helper and paid only \$6.50 an hour.

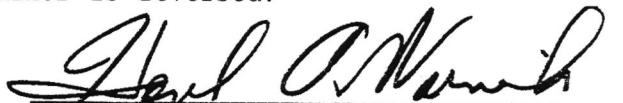
The claimant's refusal is completely justifiable because the work offered was not suitable, pursuant to Section 6(d) of the law. In Armstrong v. Creative Staffing, Inc., the Board held that a claimant who normally commanded approximately \$15,000 per year and also had taken a lower paying job temporarily (while she was pregnant) did not refuse suitable work when she was later offered another low paying job of a similar nature. The Board held that the claimant's acceptance of that job under special circumstances did not make such a job automatically "suitable" for her at all times in the future.

In this case, similar reasoning leads the Board to conclude that the claimant's mere inquiry about such a position should not automatically require him to accept it, where it is a lower classification, paying almost half of his annual salary. The Board notes that by June 16, 1988, the claimant had attained a job paying \$12.50 an hour and was still employed at the time of the hearing. Considering the relatively short period of unemployment, the significantly lower salary, the lower job classification and the fact that the claimant had good prospects of employment at his old salary level, the job references was not suitable within the meaning of Section 6(d) of the law.

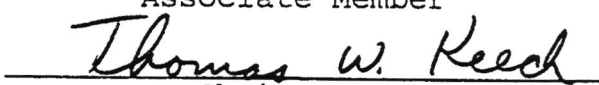
DECISION

The claimant did not refuse suitable work within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law. No disqualification is imposed under this section of the Law.

The decision of the the Hearing Examiner is reversed.



Associate Member



Chairman

COPIES MAILED TO:

CLAIMANT
UNEMPLOYMENT INSURANCE - WESTMINSTER

STATE OF MARYLAND
APPEALS DIVISION
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
(301) 383-5040

STATE OF MARYLAND
William Donald Schafer
Governor

— DECISION —

Date: Mailed: June 23, 1988
Claimant: Mark E. Tuck
Appeal No.: 8805834
S.S. No.:
Employer:
L.O.No.: 15
Appellant: Claimant

Issue: Whether the claimant failed, without good cause, to either apply for or to accept an offer of available, suitable work within the meaning of Section 6(d) 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 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON July 8, 1988

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:

Mark E. Tuck - Claimant

FOR THE EMPLOYER:

Other: Thomas Henderson -
Claims Specialist; Jean
Jackson - Job Service
Supervisor - DEED

FINDINGS OF FACT

The record shows that on his claim certification form, the claimant had been offered employment by Westminster Kitchen Design as a carpenter's helper at \$6.50 per hour. The claimant had rejected this employment because his most recent employment

had paid \$12.19 per hour as a carpenter performing services for hotels and office buildings. The claimant had been unemployed approximately three weeks at that time. The matter, as reported, was referred to the Job Service, which determined that the job was within the claimant's abilities and was beyond the prevailing wage rate for the type of work offered in the geographical area. Accordingly, a determination was made under Section 6(d) that the claimant had refused available, suitable work, and the claimant was disqualified from unemployment insurance benefits.

CONCLUSIONS OF LAW

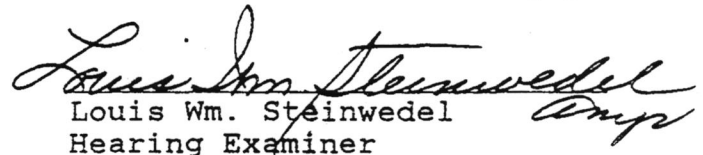
As provided by Section 6(d), among the factors to be considered in determining if work is suitable for an individual, are his experience and prior earnings, the length of unemployment and prospects for securing local work in his customary occupation. In the instant case, the evidence shows that the claimant had been a carpenter rather than a carpenter's helper and had earned approximately twice the amount offered by Westminster Kitchen Design. Also, the evidence shows that the claimant obtained work at Masters' Carpentry on June 16, 1988 and is currently employed there earning \$12.50 per hour.

In consideration of the fact that the claimant had previously performed duties as a carpenter rather than as a carpenter's helper at approximately double the amount of compensation offered by Westminster Kitchen-Design, and further consideration of the fact that the claimant was promptly able to obtain employment in his job category at \$12.50 per hour, it shall be held that the minimum disqualification under Section 6(d) shall be applied.

DECISION

It is held that the claimant failed to accept available, suitable work within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law. A disqualification is applied for the week beginning May 1, 1988 and for the four weeks immediately following.

The determination of the Claims Examiner is modified accordingly.


Louis Wm. Steinwedel
Hearing Examiner

Date of hearing: 6/21/88
amp/Henderson/ 3848
Copies mailed on June 23, 1988 to:

Claimant
Unemployment insurance - Westminster (MABS)