

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

BOARD OF APPEALS

Thomas W. Keech
Chairman

Hazel A. Warnick
Associate Member

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



William Donald Schaefer, Governor
J. Randall Evans, Secretary

Decision No.: 902-BH-87

Date: Dec. 24, 1987

Claimant: Mary J. Cumor

Appeal No.: 8707249

S. S. No.:

Employer: Computers Communications Group
t/a Entre Computers
ATTN: Marsha Bernstein, VP

L.O. No.: 45

Appellant: CLAIMANT

Issue: Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) 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.

January 23, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Mary J. Cumor - Claimant
Frances Berlin - Witness
Kathy Cope - Witness
Leah Seaton - Attorney, Legal Aid Bureau

Marsha Bernstein
Vice President
Marci Hodges -
Acct. Admin.

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 by Computers Communications Group, primarily as a receptionist, from March 31, 1987 to June 9, 1987. When the claimant was first hired for the job, the employer was pleased with her job performance. At that time, the claimant's predecessor had left things in disarray. The claimant was hired to update the filing, answer the phones, and help organize the office. She did these things, which resulted in the employer being satisfied with her work. However, as time went on, the employer began giving the claimant other tasks to perform, including taking messages, dealing with customers, ringing up on the cash register, etc. The claimant began having more difficulties performing these duties satisfactorily. There were complaints from other employees that the claimant was not properly taking messages and not properly dealing with customers.

The employer through, Marci Hodges, the accounting administrator and Marci Bernstein, the vice president, talked with the claimant about these problems on several occasions and even suggested that she make up a list of ways that she felt they could help her improve her job performance. However, there was no improvement in the claimant's job performance, nor did she even make up this list as requested. The claimant tried to do the job to the best of her ability but was not capable of doing the job to the employer's satisfaction. The claimant did not have previous experience doing clerical Office work, having worked on the assembly line for Maryland Cup for 14 years as a packer.

On or about June 9, 1987, the claimant was called into a conference with Ms. Bernstein and Ms. Hodges again. She informed them that she was unable to make a list of ways to improve her performance and she did not know how to do the job any better. out of frustration the claimant raised the question of whether the employer wanted her to quit. She had not intended to quit at that time. Ms. Bernstein, being dissatisfied with the claimant's performance and seeing no improvement, seized on these words of the claimant and indicated that that was indeed what the employer wanted her to do as they saw no other options. The claimant, concluding from this that she was discharged, ran out" of the office and did not return.

CONCLUSIONS OF LAW

The Board concludes that the claimant did not voluntarily quit her job and did not intend to quit her job when she asked the employer if she should quit. The claimant realized the employer's increasing dissatisfaction with her work and merely raised the question of her quitting. It was the employer who seized on this opportunity to discharge the claimant.

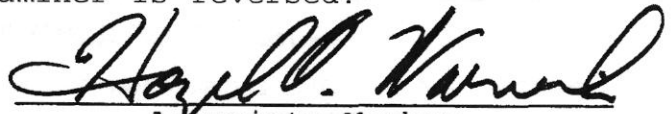
There is no evidence that the claimant was discharged for any misconduct on her part. The Board has long held that incompetence or inability to perform one's job satisfactorily is not misconduct under the unemployment insurance law. See , e.g., Chambers v. J.P. Mancini, 408-BH-84.

Therefore the decision of the Hearing Examiner will be reversed.

DECISION

The claimant was discharged, but not for gross misconduct or misconduct, within the meaning of Section 6(b) or Section 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon the claimant's employment with Computers Communications Group.

The decision of the Hearing Examiner is reversed.


Associate Member


Chairman

W:K

kmb

DATE OF HEARING: December 1, 1987

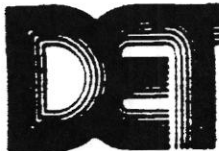
COPIES MAILED TO:

CLAIMANT

EMPLOYER

Leah J. Seaton, Esquire
Legal Aid Bureau, Inc.

UNEMPLOYMENT INSURANCE - NORTHWEST



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
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(301) 383-5040

STATE OF MARYLAND
William Donald Schaefer

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK

Associate Member

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

-DECISION-

Date: Mailed: September 4, 1987

Claimant: Mary J. Cumor

Appeal No.: 8707249

S. S. No.:

Employer: Computers Communications Group, Inc., t/a Entre Computer
L.O. No.: 45
Appellant: Claimant

Issue: Whether the Claimant voluntarily quit his employment, without good cause, within the meaning of Section 6(a) 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 September 21, 1987

- APPEARANCES -

FOR THE CLAIMANT:

Present
Leah J. Seaton, Attorney at Law

FOR THE EMPLOYER:

Marci Hodges,
Accounting Administrator; Marcia Bernstein, Vice President/Administrative Coordinator

FINDINGS OF FACT

The Claimant had been employed by the Computers Communications Group, Inc. trading as Entre Computer Center from March 31, 1987 to June 9, 1987. The Claimant was employed as a receptionist. The Claimant's job involved

filing, typing invoices, waiting on customers, ring cash register, etc.

The Claimant chose to resign her employment at Entre Computer Center on June 9, 1987 because the Claimant was under the belief that she was forced to resign her position. The Claimant had a meeting on May 27, 1987 to discuss matters of the Claimant answering the telephone, invoices being done daily, and the responsibility of her position. After the meeting held on May 27, 1987, the Claimant was asked by the employer to list ways to improve her position with the company. On June 9, 1987, the Claimant had a meeting with her employer; the Claimant was informed by Entre Computer Center that things were not going in the right direction. The Claimant was not told directly by her employer that she was being discharged from her job. The meeting on June 9, 1987 was conducted to discuss ways to improve the Claimant's working relationship with her employer.

The Claimant did not like the way she was treated by her employer who yelled at her on two occasions. Furthermore, the Claimant would work overtime for Entre Computer Center; however, the Claimant's employer failed to pay the Claimant time and a half for working over 40 hours a week. However, the Claimant did not resign her employment because she was not paid time and a half for working over 40 hours a week, nor did the Claimant resign her position because her employer yelled at her on two occasions. The Hearing Examiner finds as a fact that the Claimant was not forced to resign her employment with Entre Computer Center on June 9, 1987.

CONCLUSIONS OF LAW

The Claimant resigned her employment at the Entre Computer Center on June 9, 1987 because the Claimant was under the belief that she was forced to resign her position with the company. On June 9, 1987, the Claimant had a meeting with her employer to discuss her position with the company. The Claimant had been informed by Entre Computer Center that things were not going in the right direction. The Claimant did have, meeting with Entre Computer Center on May 27, 1987 to discuss areas where the Claimant should keep her job performance working up to the company standards.

On June 9, 1987, the Claimant was informed by her employer that things were not going in the right direction; the Claimant was not informed by her employer that she was being discharged from employment. Entre Computer Center was discussing with the Claimant on June 9, 1987 her progress with the company. The Claimant was not paid time and a half for working over 40 hours a week, and the Claimant was

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dissatisfied that the employer yelled at her on two occasions; however, the Claimant did not resign her employment for those reasons that she was being yelled at or she was not paid time and a half for working over 40 hours a week .

The Claimant's reason for leaving her employment at Entre Computer Center due to a belief that she was being forced to resign her position does not constitute good cause for leaving work within the meaning of Section 6(a) of the Law. There exist no valid circumstances present to warrant less than the maximum penalty allowed by law. On June 9, 1987, the Claimant was not forced to resign her position and could have remained with the company. The determination of the Claims Examiner will be affirmed.

DECISION

The unemployment of the Claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning June 7, 1987 and until the Claimant becomes reemployed and earns ten times her weekly benefit amount (\$1,690) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.



Marvin I. Pazornick
Hearing Examiner

Date of Hearing: 8/6/87
Cassette: 4486, 4488A (Eddington)
Copies Mailed on September 4, 1987 to:
Claimant
Employer
Unemployment Insurance - Northwest (MABS)
Legal Aid Bureau, Inc.

Attn: Leah J. Seaton, Attorney at Law