

- DECISION -

Claimant:
TERRAN C WALKER

Decision No.: 904-BR-01

Date: May 04, 2001

Appeal No.: 0102669

S.S. No.:

Employer:
RENTACRATE INC

L.O. No.: 61

Appellant: Claimant

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

- NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how to file the appeal can be found in many public libraries, in the Maryland Rules of Procedure, Title 7, Chapter 200.

The period for filing an appeal expires: June 03, 2001

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals adopts the findings of fact of the Hearing Examiner. However the Board concludes that these facts warrant a different conclusion of law and reverses the decision of the Hearing Examiner.

Section 8-1001 of the Labor and Employment Article provides that individuals shall be disqualified from the receipt of benefits where their unemployment is due to leaving work voluntarily, without good cause arising from or connected with the conditions of employment or actions of the employer or without serious, valid circumstances. A circumstance for voluntarily leaving work is valid if it is a substantial cause that is directly attributable to, arising from, or connected with the conditions of employment or actions of the employing unit or of such necessitous or compelling nature that the individual had no reasonable alternative other than leaving the employment.

In a case of a voluntary quit, the burden is on the claimant to establish either good cause or valid circumstances for quitting employment within the meaning of Section 8-1001 of the Maryland Unemployment Insurance Law. The claimant has established valid circumstances for quitting his employment in this case.

The Court of Appeals, in the case Total Audio Visual Systems, Inc. v. DLLR, 360. Md 387(2000) held that a resignation to accept other employment is for purely personal reasons unrelated to the conditions of employment and does not constitute "good cause" for resignation within the meaning of Section 8-1001 of the Maryland Unemployment Insurance Law. Such a resignation may constitute a "valid circumstance" within the meaning of the statute only if "the acceptance of the new job was of such a necessitous and compelling nature that the individual has no reasonable alternative other than leaving the employment." Gaskins v. United Parcel Service, 1686-BR-00 (quoting Total Audio-Visual System, Inc., Supra). In the instant case the credible evidence demonstrates that the claimant resigned his employment with this employer to accept other employment. Therefore, under Total Audio-Visual Systems, Inc., the claimant's quit is without good cause.

However, the claimant has established that acceptance of the new employment was of such a necessitous and compelling nature that he had no reasonable alternative other than leaving his employment. The new employment resulted in the claimant increasing his income by fifty percent (50%). This is clearly a necessitous and compelling reason to leave one job for another. The claimant's quit was therefore for valid circumstances within the meaning of Section 8-1001 of the Maryland Unemployment Insurance Law.

DECISION

It is held that the claimant left work voluntarily, without good cause but for valid circumstances, within the meaning of Maryland Code Annotated, Labor and Employment Article, Title 8, Section 1001. He is disqualified from receiving benefits from the week beginning July 23, 2000 and the four weeks immediately following.

The decision of the Hearing Examiner is reversed.

Donna Watts-Lamont

Donna Watts-Lamont, Associate Member

Clayton A. Mitchell, Sr.

Clayton A. Mitchell, Sr., Associate Member

Copies mailed to:

TERRAN C. WALKER

RENTACRATE INC

LOCAL OFFICE #61

RENTACRATE INC

Michael Taylor, Agency Representative

UNEMPLOYMENT INSURANCE APPEALS DECISION

TERRAN C WALKER

SSN #

Claimant

vs.

RENTACRATE INC

Employer/Agency

Before the:

**Maryland Department of Labor,
Licensing and Regulation
Division of Appeals**
1100 North Eutaw Street
Room 511
Baltimore, MD 21201
(410) 767-2421

Appeal Number: 0102669
Appellant: Claimant
Local Office : 61 / COLLEGE PARK
CLAIM CENTER

March 07, 2001

For the Claimant : PRESENT

For the Employer : PRESENT , TROY STOVER

For the Agency:

ISSUE(S)

Whether the claimant's separation from this employment was for a disqualifying reason within the meaning of the MD. Code Annotated, Labor and Employment Article, Title 8, Sections 1001 (Voluntary Quit for good cause), 1002 - 1002.1 (Gross/Aggravated Misconduct connected with the work), or 1003 (Misconduct connected with the work).

FINDINGS OF FACT

The claimant was employed by this employer from January 3, 2000 to July 26, 2000. At the time of separation, the claimant was a full-time driver/helper earning \$8.00 per hour.

In July of 2000, the claimant began looking for a new job because he wanted to change his career due to his acquiring office skills. In mid-July, the claimant was offered a position as an office administrator earning \$12.00 per hour to start on July 27, 2000. The claimant's new position was approximately 15 miles closer to his home than his position with his old employer. Therefore, the claimant took the new job and gave two week's notice to this employer on July 24, 2000. However, the claimant's last day of work was July 26, 2000, due to an argument with his supervisor.

CONCLUSIONS OF LAW

Md. Code Ann., Labor & Emp. Article, Section 8-1001 (Supp. 1996) provides that an individual shall be disqualified for benefits where unemployment is due to leaving work voluntarily without good cause arising from or connected with the conditions of employment or actions of the employer, or without valid circumstances. A circumstance is valid only if it is "(i) a substantial cause that is directly attributable to, arising from, or connected with conditions of employment or actions of the employing unit; or (ii) of such necessitous or compelling nature that the individual has no reasonable alternative other than leaving the employment."

EVALUATION OF EVIDENCE

Since the claimant voluntarily quit his position, he has the burden of proving that his quit was due to good cause or a valid circumstance. In the instant case, the evidence demonstrates that the claimant quit his position with this employer because he had obtained a new job. The claimant testified that after he gave his two week's notice, he got into an argument with his supervisor and therefore did not work out the two weeks, but instead left two days later, on July 26, 2000. However, the evidence demonstrated that the claimant's quit was due to obtaining his new job since he had already given his two week's notice on July 24, and not due to the argument with his supervisor which only shortened his notice period.

In the case of Total Audio-Visual Systems, Inc. v. DLLR (No. 145, September Term 1999, filed August 25, 2000), the Court of Appeals held that a resignation to accept other employment is for purely personal reasons unrelated to the conditions of employment and does not constitute "good cause" for resignation within the meaning of Section 8-1001 of the Maryland Unemployment Insurance Law. Such a resignation may constitute a "valid circumstance" within the meaning of the statute only if "the acceptance of the new job was of such a necessitous and compelling nature that the individual has no reasonable alternative other than leaving the employment." Gaskins v. United Parcel Service, 1686-BR-00 (quoting Total Audio-Visual Systems, Inc., supra). In the instant case the credible evidence demonstrates that the claimant resigned his employment with this employer to accept other employment. Therefore, under Total Audio-Visual Systems, Inc., the claimant's quit is without good cause. Moreover, no allegations were asserted to demonstrate that the claimant's quit was of such a necessitous or compelling nature that he had no reasonable alternative other than leaving his employment. Therefore, the claimant's quit is without a valid circumstance. Consequently, the claimant's quit is without good cause or a valid circumstance.

DECISION

IT IS HELD THAT the claimant's unemployment was due to leaving work voluntarily without good cause or valid circumstances within the meaning of Md. Code Ann., Labor & Emp. Article, Section 8-1001 (Supp. 1996). Benefits are denied for the week beginning July 23, 2000 and until the claimant becomes re-employed and earns at least 15 times the claimant's weekly benefit amount in covered wages and thereafter becomes unemployed through no fault of the claimant.

The determination of the Claim Specialist is modified.

L N Nacht, Esq.
Hearing Examiner

Notice of Right to Request Waiver of Overpayment

The Department of Labor, Licensing and Regulation may seek recovery of any overpayment received by the Claimant. Pursuant to Section 8-809 of the Labor and Employment Article of the Annotated Code of Maryland, and Code of Maryland Regulations 09.32.07.01 through 09.32.07.09, the Claimant has a right to request a waiver of recovery of this overpayment. This request may be made by contacting Overpayment Recoveries Unit at 410-949-0022 or 1-800-827-4839. If this request is made, the Claimant is entitled to a hearing on this issue.

A request for waiver of recovery of overpayment does not act as an appeal of this decision.

Notice of Right to Petition for Review

Any party may request a review either in person or by mail which may be filed in any local office of the Department of Labor, Licensing and Regulation, or with the Board of Appeals, Room 515, 1100 North Eutaw Street, Baltimore, MD 21201. Your appeal must be filed by March 22, 2001.

Note: Appeals filed by mail are considered timely on the date of the U. S. Postal Service postmark.

Date of hearing : February 28,2001
DW/Specialist ID: WCP27
Seq No: 001
Copies mailed on March 07, 2001 to:
TERRAN C. WALKER
RENTACRATE INC
LOCAL OFFICE #61
RENTACRATE INC