



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
HARRY HUGHES
Governor

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

— DECISION —

Decision No.: 971-BR-84

Date: December 14, 1984

Claimant: Kathryn L. Smoot

Appeal No.: 05529

S. S. No.:

Employer: Abaris Realty, Inc.

LO. No.: 5

Appellant: EMPLOYER

Issue:

Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON January 13, 1985

— 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 Appeals Referee and concludes that the claimant voluntarily quit her job for personal reasons that constitute neither good cause nor valid circumstances.

On April 3, 1984, the claimant notified the employer of her intent to resign her job because her personal circumstances had changed, necessitating that she relocate her residence, and because her career interests lay in other directions. In her letter, the claimant did not give an exact date for her leaving but stated that in lieu of giving two weeks notice, she was "willing to work a reduced week while training the new employee(s) until I can no longer accommodate." See Employer's Exhibit No. 1.

This is clearly a resignation. The claimant was working full time when she submitted this letter and her intent was clearly to end that full-time job immediately and stay, only on a part-time basis and only long enough to train her replacement.

The claimant's offer to work part time for an indefinite but temporary period was unacceptable to the employer. Therefore the employer accepted the claimant's resignation, effective immediately. Since the claimant offered the employer an alternative of two week's notice, which the employer also rejected, the Board concludes that she voluntarily quit effective April 17, 1984, two weeks after the date of her letter of resignation.

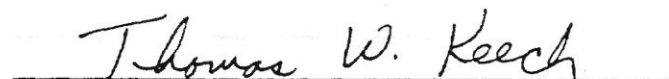
DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of §6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning April 17, 1984, and until she becomes re-employed, earns at least ten times her weekly benefit amount (\$1,520) and thereafter becomes unemployed through no fault of her own.

The decision of the Appeals Referee is reversed.



Associate Member



Chairman

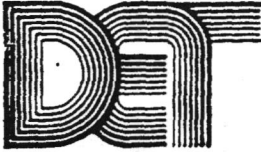
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COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - FREDERICK



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

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STATE OF MARYLAND

HARRY HUGHES
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— DECISION —

Claimant: Kathryn L. Smoot Date: July 2, 1984

Appeal No.: 05529

S. S. No.:

Employer: Abaris Realty, Inc. LO. No.: 5

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 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 PETITION FOR REVIEW EXPIRES AT July 17, 1984

— APPEARANCES —

FOR THE CLAIMANT:

Kathryn L. Smoot - Claimant

FOR THE EMPLOYER:

Jennifer Foester
Office Manager
Bruce Blumberg
Vice President

EVALUATION OF EVIDENCE

The employer alleged that the claimant was discharged from employment at Abaris Realty, Inc. because the claimant submitted a intent of resignation from Abaris Realty, Inc.; the uncertainty of future employment necessitated Abaris Realty, Inc. to discharge the claimant from her employment. The employer, Abaris Realty, Inc. alleged that the claimant was not terminated due to her job performance or her attitude on the job.

The claimant alleged that she did submit a letter of intent to resign; the claimant had no specific date when she would resign her employment at Abaris Realty, Inc. The claimant alleged that she did not resign her employment, but was informed by her employer that she was being discharged from employment. The claimant alleged that she had been off from work on March 29 and March 30, 1984, because she was not feeling well. Further, the claimant alleged that she had taken off work on Monday, April 2, 1984, because she was making plans to get her automobile inspected and repaired so that she would be able to go to and from work. On April 3, 1984, the claimant had requested from her employer to take one more day off on Wednesday, April 4, 1984 for further arrangements for her automobile for tags and registration with the Department of Motor Vehicle Administration.

FINDINGS OF FACT

The claimant filed a claim for unemployment insurance benefits, effective April 8, 1984. The claimant had been employed by the Arabis Realty, Inc. from October, 1980 until April 3, 1984. She had been employed as an administrative assistant.

On April 3, 1984, the claimant submitted a letter of intent to resign to her employer at Abaris Realty, Inc. The claimant's letter of intent to resign of April 3, 1984, gave no specific date of resignation. The letter only indicates the claimant's intent to resign her employment at a future date. When the employer became aware of the claimant's intent to resign her position at Abaris Realty, Inc. at a future date, the claimant was informed by her employer that she was being discharged from her position. The claimant was discharged from employment at Abaris Realty, Inc. due to the uncertainty of her future employment. The employer had no idea how long the claimant was going to work at Abaris Realty, Inc.

The claimant did not voluntarily separate from her employment from Abaris Realty, Inc., but was discharged by her employer.

CONCLUSIONS OF LAW

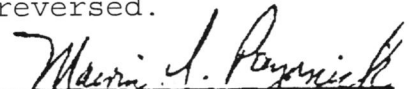
Section 6(a) of the Maryland Unemployment Insurance Law provides that an individual was disqualified from benefits when his/her unemployment is due to leaving work voluntarily. This Section of the Law has been interpreted by the Maryland Court of Appeals in the case of Allen vs. CORE Target City Youth Program (275 Md. 69), in that case the Court said: "As we see it, the phrase 'do to leaving work voluntarily', has a plain, definite, and sensible meaning; it expresses a clear legislative intent that to disqualify a claimant from benefits, the evidence must establish that the claimant, by her own choice, and intentionally, of her own free will, terminated the employment.

In the instant case, the evidence will not support a conclusion that the claimant did formulate the requisite intent to separate from her employment as contemplated by the Court of Appeals in the Allen case. The claimant was discharged by Abaris Realty, Inc. due to the uncertainty of future employment by the claimant. The claimant submitted to Abaris Realty, Inc. an intent to resign employment. However, the claimant's letter of intent to resign gave no specific date of her resigning her employment. The claimant was separated for a non-disqualifying reason under Section 6(c) of the Law. Therefore, the determination of the Claims Examiner that the claimant voluntarily resigned her employment, without good cause, under Section 6(a) of the Law must be reversed.

DECISION

The claimant was discharged, but not for misconduct connected with the work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based on her separation from her employment with Abaris Realty, Inc. The claimant may contact the local office concerning the other eligibility requirements of the Law.

The determination of the Claims Examiner is reversed.



Marvin I. Pazornick
Appeals Referee

Date of hearing: 6/13/84

cdg/8317

(McConnell)

4515B

Copies mailed to:

Claimant

Employer

Unemployment Insurance - Frederick