



# Maryland

## Department of Economic & Employment Development

*William Donald Schaefer, Governor  
J. Randall Evans, Secretary*

*Board of Appeals  
1100 North Eutaw Street  
Baltimore, Maryland 21201  
Telephone: (301) 333-5032*

*Board of Appeals  
Thomas W. Keech, Chairman  
Hazel A. Warnick, Associate Member  
Donna P. Watts, Associate Member*

— DECISION —

Decision No.:	220-BR-90
Date:	March 6, 1990
Claimant: Jeffrey Laster	Appeal No.: 8912236
	S. S. No.:
Employer: Manpower, Inc. ATTN: Susan Lambert, Acct. Dept.	L O. No.: 50
	Appellant: CLAIMANT

Issue:

Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the law; whether the appealing party filed a timely appeal or had good cause for an appeal filed late within the meaning of Section 7(c)(3) of the law; whether there is good cause to reopen this dismissed case under COMAR 24.02.06.02(N).

---

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAYBE 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.

April 5, 1990

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 on the merits.

## EVALUATION OF THE EVIDENCE AND FINDINGS OF FACT

It was uncontested that the claimant's first day of work for this employer, a temporary employment agency, was July 8, 1988. He was classified as a clerical worker, doing "data base" and word processing, including shorthand. He was sent on a number of different assignments over the next few months, although the exact number, duration and stability of these assignments is not in the record. He worked for a concern called The Calvert Group, for IBM, and for at least one other company. He worked in Maryland, Virginia and the District of Columbia for this employer. The claimant eventually left this geographical area and obtained at least one temporary job, then a permanent in California.

The employer's witness had no personal knowledge of this claimant and testified only from records. Since this was a telephone hearing, the records were not submitted into evidence nor shown to the claimant for his objection or rebuttal. This evidence tended to show that the claimant had a number of assignments and that his last assignment was a one-day assignment on December 8, 1988. This evidence tended to show that the claimant was offered a continuation of that employment for the next day, but that he did not show. Interestingly, this evidence also tended to show that the claimant was not paid for December 8, 1988. This evidence tended to show that the claimant did not call this employer requesting further assignments after December 8.

The claimant's testimony with respect to the beginning phase of his employment was similar to that of the employer. The claimant adamantly testified that he completed each and every work assignment given to him by the employer and that he also called in for more assignments, but was never given one. He testified that he was basically out of work and left to go to Los Angeles in order to meet a potential employer for a scheduled interview for a permanent job. He testified that he did not obtain this job but that he obtained other temporary employment in the Los Angeles area until he eventually obtained permanent employment. This claimant's testimony is buttressed by the employer's testimony at one point. The employer's testimony tended to show that the claimant had signed up with a similar Manpower agency in Los Angeles and had requested that his employment records be sent to that office also.

The Board finds the claimant's evidence more credible. Although the evidence on both sides was vague and non-specific, the claimant's testimony about these events which occurred long ago was at least from his own personal knowledge. The employer apparently had the advantage of having memorialized their contacts in written records, but even these written records were extremely unspecific.

## CONCLUSIONS OF LAW

Based on the facts as testified to by the claimant, the Board concludes that the claimant did not voluntarily quit his job. He was not employed at the time he left the area to attend an employment interview in Los Angeles. If one is not employed, one cannot quit. The employer may consider that any person who ceases calling the employer's premises on a regular basis for work has quit the employment, but for purposes of the Unemployment Insurance Law, a person becomes unemployed when his remunerative assignment has come to an end. Only in a well-documented case where a temporary employment agency can show that a claimant had a long history of practically uninterrupted work assignments, and was virtually assured of continuing work after completing the last assignment, will the Board find that such a failure to re-contact the agency constitutes a voluntary quit. In making these types of determinations, generalized statements about the availability of work will not be given much weight. Only a documented longstanding history of continual and virtually uninterrupted employment will lead the Board to conclude that a failure to re-contact a temporary employment agency is a voluntary quit. In the present case, the claimant simply sought other employment in another area when his employment in this area ceased. He left in order to attend an interview for a permanent position and also to continue to work temporary jobs in another area. This is simply not a voluntary quit.

Assuming, for the sake of argument, that the employer's version of the facts was correct, the Board would conclude that the claimant did voluntarily quit his employment. Since the claimant had, under this version of events, at least one more day of employment available to him when he left, it would be said that he did voluntarily quit. Even this quit, however, would have been for good cause within the meaning of Section 6(a). The claimant's work history at this agency was that of sporadic, short-term assignments. He had only one additional guaranteed day of work at the time he left. He left in order to attend an interview for a permanent job in another state. In addition, there is no reason to believe that sporadic temporary jobs were not just as available in the area to which the claimant moved as they were in this area. Under all these circumstances, the Board would have concluded that this was a voluntary quit for good cause.

The Board adopts the findings of fact and conclusions of law of the Hearing Examiner with respect to the two procedural issues.


DECISION

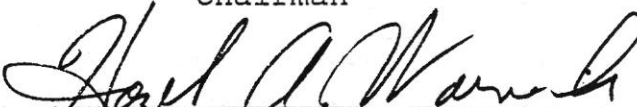
The claimant had good cause for filing a late appeal within the meaning of Section 7(c)(3) of the law.


The claimant has shown good cause for reopening his dismissed case within the meaning of COMAR 24.02.06.02(N).

The claimant did not voluntarily quit his employment. No disqualification is imposed under Section 6(a) of the Maryland Unemployment Insurance Law based upon his reason for separation from Manpower, Inc. The claimant may contact his nearest unemployment insurance office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is affirmed in part, reversed in part.

  
Chairman

  
Associate Member

  
Associate Member

K:W:W

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

OUT-OF-STATE CLAIMS



# Maryland

## Department of Economic & Employment Development

*William Donald Schaefer, Governor*  
*J. Randall Evans, Secretary*

*William R. Merriman, Chief Hearing Examiner*  
*Louis Wm. Steinwedel, Deputy Hearing Examiner*

*1100 North Eutaw Street*  
*Baltimore, Maryland 21201*

*Telephone: 333-5040*

**— D E C I S I O N —**

Date: Mailed: January 10, 1990

Claimant: Jeffery Laster

Appeal No.: 8912236

S. S. No.:

Employer: Manpower Inc.

I.O. No.: 50

Appellant: Claimant

Issue: Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law. Whether the appeal was late under Section 7(c)(3) of the Law. Whether there is good cause to reopen this dismissed case under COMAR 24.02.06.02(N).

---

**— 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, 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

January 25, 1990

---

**— A P P E A R A N C E S —**

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Jeffery Laster - Claimant  
telephone hearing

Susan Lambert,  
Accounting  
Department Manager

**FINDINGS OF FACT**

A benefit determination mailed to the parties provides that the last date to file a timely appeal was September 15, 1989. In this case the appeal was postmarked on September 20, 1989. The

appellant offers as a reason for late appeal that he did not know proper procedures for requesting an appeal because he is an out of state claimant. He claims that he was advised by the local office in California that he should deal directly with the Maryland Unemployment Agency by mail.

The appellant's hearing was originally scheduled for December 5, 1989, and the appellant having due notice of this hearing mailed to his last address of record failed to be available for the telephone hearing on that date. The appeal was dismissed for his non appearance and the appellant subsequently petitioned for reopening the appeal. The appellant offers as a reason for being unavailable on December 5, that he did not understand that he would be called at 10:00 a.m. pacific time as the hearing was scheduled at 1:00 p.m. eastern standard time.

The claimant had a series of assignments from this temporary employment agency as a clerical office worker/word processor. The claimant failed to complete an assignment and the employer has no record that he subsequently contacted them for another assignment which is their normal way of operating. Work would have been available in his line of work had he contacted the employer. The claimant moved to Los Angeles California to explore job possibilities there but did not have a commitment for employment at the time he moved.

#### CONCLUSIONS OF LAW

Article 95A, Section 6(a) provides that an individual shall be disqualified for benefits where his 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. The preponderance of the credible evidence in the record support a conclusion that the claimant voluntarily separated from employment, without good cause or valid circumstances, within the meaning of Section 6(a) of the Law.

The claimant abandoned employment with Manpower Incorporated to move to California to look for other work. A claimant leaves work without good cause or valid circumstances were he leaves to pursue the mere opportunity for other employment without having a certain job commitment. See Cardinali v. North Charles General Hospital, 152-BR-84.

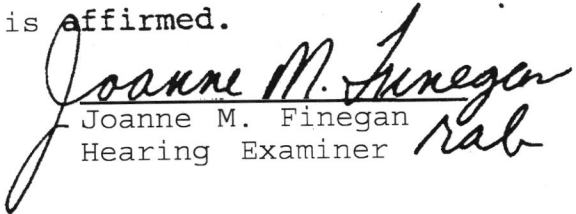
#### DECISION

Out of an abundance of caution it is held that the claimant had

good cause for the untimely appeal. In the same vein good cause is found to reopen this dismissed case.

It is held that 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. He is disqualified from receiving benefits from the week beginning November 27, 1988, and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1070.00) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is affirmed.

  
Joanne M. Finegan  
Hearing Examiner *rab*

Date of Hearing: January 5, 1990  
rab/ Specialist ID: 50503  
Cassette Number 11323 89  
Copies Mailed on January 10, 1990 to:  
Claimant  
Employer  
Out-of-State Claims (MABS)