

 **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.:	424 -BH-91
Date:	April 16, 1991
Claimant: Eleanor Thomas	Appeal No.: 9009329
	S. S. No.:
Employer: Stephen Kennedy	L. O. No.: 1
	Appellant: EMPLOYER
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law; whether the claimant was discharged for misconduct, connected with her work, within the meaning of Section 6(c) 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES

May 16, 1991

— APPEARANCES —

FOR THE CLAIMANT:

Eleanor Thomas, Claimant

FOR THE EMPLOYER:

Stephen Kennedy,
Employer

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 this employer, a temporary employment agency, from September, 1989 until June 1, 1990. The claimant was assigned to the Maryland State Lottery Commission. At the time of her assignment, the claimant was informed that she may have to work some nights and weekends. However, during the term of this assignment she did not work any nights or weekends.

The claimant was initially paid \$3.75 per hour. Later, she was given a raise of \$4.25 an hour on May 3, 1989. On May 18, 1989, the claimant asked for a raise that would bring her hourly wage to \$7.50 per hour. This was denied.

In June of 1989, the claimant quit her employment. Following her voluntary quit, she was offered other suitable employment with the employer and declined all offers. She was offered another job at the same rate of pay, (\$4.25 per hour) in the same building in which she had been working. This building was located at the Reisterstown Plaza on Reisterstown Road, in Baltimore, Maryland. The claimant would not accept the job, stating that she would only work for \$7.00 an hour.

At the time the claimant voluntarily quit her employment, there was continuing, suitable work available.

CONCLUSIONS or LAW

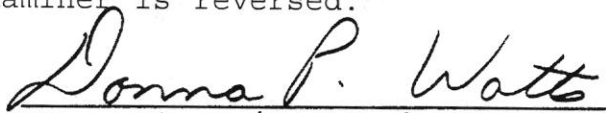
Article 95A, Section 6(a) provides no disqualification from Unemployment Insurance Benefits where a claimant leaves employment with good cause attributable to the actions of the employer or the conditions of employment. The facts of this case establish that the claimant voluntarily quit her employment, without good cause connected to the work, within the meaning of Section 6(a) of the law. The facts of this case also establish that the claimant lacked valid circumstances for quitting her employment.

The claimant accepted this position knowing the rate of pay and the hours and days of which she might be expected to work. When she voiced an objection to this employment, she was offered that same day, other employment at the same rate of pay and at the same location at which she was working. No good cause or valid circumstances exist to support her voluntary quit.

DECISION

The claimant voluntarily quit without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. Valid circumstances for quitting her employment do not exist. The claimant is denied benefits from the week beginning May 27, 1990 and until she becomes re-employed and earns at least ten times her weekly benefit amount (\$1,000), and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is reversed.



Associate Member



Associate Member

DW:W
kbm

Date of Hearing: February 5, 1991
COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE



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 -

Claimant:	Eleanor L. Thomas	Date:	Mailed: 11/02/90
		Appeal No.:	9009329
		S.S. No.:	
Employer:	Stephen G. Kennedy	L.O. No.:	01
		Appellant:	Employer

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.

— 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 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.

THIS PERIOD FOR FILING A FURTHER APPEAL

November 19, 1990

— A P P E A R A N C E S —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Present

Stephen G. Kennedy,
President

FINDINGS OF FACT

The employer operates a temporary agency. From September, 1989 through June 1, 1990, the claimant was employed as a temporary employee and assigned to the Maryland State Lottery.

Before she accepted the assignment, she was told that she would have to work from 8:30 a.m. to 4:30 p.m., Mondays through Fridays. After she accepted the assignment, she was told by the Maryland State Lottery that occasionally she would have to work

from 12:00 noon to 8:00 p.m. Subsequently, she was also told that she would have to rotate on Saturdays and Sundays.

The claimant could not work on week-ends because she is a single parent with children ages nine, twelve and sixteen. Consequently, she quit.

On or about the day she quit, she spoke with the employer. The employer offered her another position in Reisterstown paying \$4.25 per hour. She refused this assignment because the long commute by public transportation made it uneconomical. She lives in Baltimore. For awhile after she quit, she called the employer on several occasions to inquire about other assignments.

CONCLUSIONS OF LAW

Article 95A, Section 6(a) provides no disqualification from unemployment insurance benefits where a claimant leaves employment with good cause attributable to the actions of the employer or the conditions of employment. The facts established in the instant case will support a finding that the claimant's leaving the employment was for good cause within the meaning of Article 95A, Section 6(a).

In this case, I find that the claimant quit because her hours were changed after she accepted the assignment. Under the circumstances, changing the conditions of her employment is sufficient to support a finding that she voluntarily quit for good cause.

DECISION

The determination of the Claims Examiner is reversed.

The claimant voluntarily quit, for good cause, within the meaning of Section 6(a) of the Maryland unemployment Insurance Law.

The determination denying benefits beginning May 27, 1990 and until the claimant becomes re-employed and earns at least ten times her weekly benefit amount (\$1,000.00) is rescinded.

Benefits are allowed if the claimant is otherwise qualified under Maryland Unemployment Insurance Law.

The claimant may contact the local office about other eligibility

requirements of the Law.

W. Van Davis Caldwell

Van Caldwell
Hearing Examiner

Date of Hearing: 10/18/90
alma/Specialist ID: 01067
Cassette No: 5107
Copies mailed on 11/02/90 to:

Claimant
Employer
Unemployment Insurance - Baltimore (MABS)
Board of Appeals



Maryland

Department of Economic & Employment Development

*William Donald Schaefer
J. Randall Er*

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

*1100 North Eutaw Street
Baltimore, Maryland 21201*

Telephone: 333-5040

— DECISION —

Claimant:	Eleanor L. Thomas	Date:	Mailed: 8/9/90
		Appeal No.:	9009329
		S. S. No.:	
Employer:	Stephen G. Kennedy	L.O. No.:	001
		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.

— 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 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON August 24, 1990

— APPEARANCES —

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Steven G. Kennedy,
President

FINDINGS OF FACT

The employer operates a temporary agency. From September 1989 through June 1, 1990, the claimant was employed as a temporary employee and assigned to the Maryland State Lottery.

Before she accepted the assignment, she was told that she would have to work from 8:30 a.m. to 4:30 pm, Mondays through Fridays. After she accepted the assignment, she was told by the Maryland State Lottery that occasionally she would have to work from 12:00 noon to 8:00 p.m. Subsequently, she was told that she would have to rotate on Saturdays and Sundays.

The claimant could not work on weekends because she is a single parent with children ages 9, 12, and 16. Consequently she quit

On or about the day she quit, she called the employer. The employer offered her another position in Reisterstown paying \$4.25 per hour. She refused this assignment because the long commute by public transportation would have made uneconomical. She lives in Baltimore. For a while after she quit she called the employer on several occasions to find out about assignments

CONCLUSIONS OF LAW

The claimant's separation from employment was more in the nature of a discharge than a voluntary quit. Article 95A, Section 6(c) provides for disqualification from benefits where a claimant is discharged for actions which constitute a transgression of some established rule or policy of the employer, a forbidden act, a dereliction of duty or a course of wrongful conduct committed within the scope of the employment relationship, during hours of employment or on the employer's premises. The preponderance of the credible evidence in the instant case will support a conclusion that the claimant's actions do not rise to the level of misconduct within the meaning of the Statute.

Under Section 6(a) the phrase "due 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 the claimant by his or her own choice intentionally, of his or her own free will, terminated the employment. Allen v. Core Target City Youth Program, 275MD69 (1975). The facts in this case are insufficient to support a finding that the claimant intentionally voluntarily quit. She made a good faith effort to find suitable assignment through the employer.

DECISION

The determination of the Claims Examiner is reversed.

It is held that 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 upon her separation from employment with Steven G. Kennedy.

The claimant may contact the Local office concerning the other eligibility requirements of the Law.

W. Van Davis Caldwell

Van D. Caldwell
Hearing Examiner

Date of Hearing: July 31, 1990
lr/Specialist ID: 01067
Cassette No: 5107
Copies mailed on August 9, 1990 to:

Claimant
Employer
Unemployment Insurance - Baltimore (MABS)