



DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

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

William Donald Schaeter, Governor  
J. Randall Evans, Secretary

**BOARD OF APPEALS**

Thomas W. Keech, Chairman  
Hazel A. Warnick, Associate Member  
Donna P. Watts, Associate Member

**— DECISION —**

Decision No.:	545 -BH-88
Date:	June 23 , 1988
Claimant: T. J. Williams	Appeal No.: 8711504
	S. S. No.:
Employer: Maryland Cup Corp.	L.O. No.: 9
	Appellant: EMPLOYER

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law.

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**— 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 July 23 , 1988

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**— APPEARANCES —**

FOR THE CLAIMANT:

T. J. Williams, Claimant

FOR THE EMPLOYER:

Don Slipper, Pers.  
Manager;  
Brenda Gottlieb,  
Benefits Coor.;  
Thomas Armstrong,  
Safety & Security  
Manager

#### EVALUATION OF 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.

Although this was the employer's appeal, at the hearing before the Board, the employer candidly admitted that they were not in a position to offer any additional testimony or evidence with regard to the merits of this case. The claimant offered no additional evidence as well.

#### FINDINGS OF FACT

The Board will adopt the findings of fact of Hearing Examiner P.J. Hackett. As stated above, the employer, who filed the appeal in the case and whose burden it was to proceed, could offer no additional evidence, and therefore there is no basis on which to change any of the facts found in the prior decision.

#### CONCLUSIONS OF LAW

Based on the above evaluation of evidence and finding of fact, the Board will affirm the conclusions of the Hearing Examiner that the claimant voluntarily quit her employment, but for a good cause, connected with the conditions of her job. The claimant was required to work beyond her physical capacity, as documented by two physicians, and this certainly constitutes good cause within the meaning of Section 6(a) of the law. The employer failed to meet its burden to go forward with any additional evidence or testimony, and the Board sees no reason, therefore, to change the prior decision of the Hearing Examiner.

#### DECISION

The claimant voluntarily quit her job, but for good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. No disqualification is imposed based on her separation from employment with Maryland Cup Corporation.

The decision of the Hearing Examiner is affirmed.

Gayle A. Merrill  
Associate Member

Donna P. Watts  
Associate Member

Thomas W. Keech  
Chairman

HW:W:K

kbm

Date of Hearing: June 7, 1988

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - TOWSON

STATE OF MARYLAND  
APPEALS DIVISION  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201  
(301) 383-5040

STATE OF MARYLAND  
William Donald Schaefer  
Governor

--- DECISION ---

Claimant: T. J. Williams

Date: Mailed January 14, 1988

Appeal No: 8711504

S.S.NO.:

Employer: Maryland Cup Corporation

Lo. No.: 09

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.

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--- 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

January 29, 1988

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON

NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL ARE CONSIDERED FILE DATE, OF DATE OF THE US POSTAL SERVICE POSTMARK

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--- APPEARANCES ---

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER:

Jim Wellkis,  
Employment  
Representative

FINDINGS OF FACT

The Claimant was employed from April 6, 1987 as a packer at a pay rate, at the time of separation, of \$5.58 per hour for full-time, night shift employment. On June 27, 1987, she resigned because she

could not do the work that was assigned to her by her supervisor. The Claimant, who had suffered an on-the-job injury on or about June 27, 1987, was still recovering from the effects of this accident which had injured her lower back. She had returned to work but was supposed to be on light duty. Both her own physician and the company doctor had so decreed. On or about August 26, 1987, she was required to do regular, non-light duty tasks, including lifting boxes, putting them on trays and bending, which she could not do. She attempted to explain this to her supervisor to no avail. The Claimant worked for several shifts and then quit her employment because she could not continue. She was unaware that she should have reported this to the nurse, who was not on duty during the Claimant's work shift, and/or complained to personnel when this occurred.

#### CONCLUSIONS OF LAW

It is held that the Claimant voluntarily quit her employment for reasons which constitute good cause for so doing within the meaning and intent of Section 6(a) of the Maryland Unemployment Insurance Law, in that she was assigned work that beyond her physical capacity to do as a result of an earlier on the job injury. The Claimant's separation from employment is due to reasons directly attributable to the employer and/or the employment.

#### DECISION

The Claimant voluntarily quit her employment but for good cause within the meaning of Section 6(a) of the Law. No disqualification will be imposed based on this separation from employment. The determination of the Claims Examiner is hereby reversed.

  
P. J. Hackett  
Hearing Examiner

Date of Hearing: December 3, 1987  
Cassette: 7093B  
Specialist ID: 09656  
Copies Mailed on January 14, 1988 to:  
Claimant  
Employer  
Unemployment Insurance - Towson (MABS)