

 **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.:	672-BR-92	
	Date:	April 14, 1992	
Claimant:	Shireen Blair	Appeal No.:	9201798
		S. S. No.:	
Employer:	Sparks Personnel Serv., Inc. c/o J. Dunn Associates	L. O. No.:	7
		Appellant:	CLAIMANT
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 8-1001 of the Labor and Employment Article.		

— 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 14, 1992

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board reverses the decision of the Hearing Examiner.

The claimant obtained full-time, indefinite employment at the Digital Corporation through the employer in this case, Sparks Personnel Services. The employer is a temporary employment agency. The claimant worked at this Digital assignment full time as an administrative secretary from April of 1990 through October of 1991. She was paid \$10.70 an hour. Her assignment came to an end because of a lack of work at the Digital Corporation. The claimant's experience is in the managerial aspect of clerical work, including some bookkeeping and accounting work.

Subsequent to the end of this assignment, the claimant was offered part-time positions doing less responsible work for \$8.00 per hour. She refused them, primarily because she was looking for full-time work.

The Board has repeatedly ruled that, in most cases, an employee of a temporary employment agency becomes unemployed when that person's assignment ends. Leitzel v. Select Temporary Services (493-BR-90); Tulbis v. Manpower of Altoona (1125-BR-89). A person who is unemployed cannot quit her job. A penalty cannot be imposed under Section 8-1001 for "leaving work" voluntarily when that person is not employed in the first place. The Hearing Examiner's finding, therefore, that the claimant voluntarily quit her job was without basis and will be reversed.

When a work assignment for a temporary agency ends, a decision to seek permanent work instead of continuing to seek temporary assignments is not a voluntary quit. Hannas v. Manpower, Inc. (478-BR-89; Baskerville v. Able Personnel and Office Services (271-BR-89)¹:

The proper inquiry in a case such as this is whether the claimant refused suitable work within the meaning of Section 8-1003 of the law. Having been offered suitable work while unemployed, the claimant may be disqualified for refusing that work. There are some restrictions on that disqualification, however. First, the penalty may be imposed only if the job was offered after the claimant was in "claim status." Sinai Hospital v. Department of Employment and Training, 309 Md. 28, 522 A.2d 382 (1987). Second, the job must be suitable. Third, the claimant must not have good cause to refuse it.

¹There are exceptions to this rule, as stated in the Leitzel case cited above, but the exceptions do not apply in this case.

The Hearing Examiner took insufficient evidence on whether the Sinai Hospital test was met. The claimant's testimony was vague concerning the dates of any job offer or offers. The Hearing Examiner did not ask her the date. The employer did not appear and present any evidence at all.

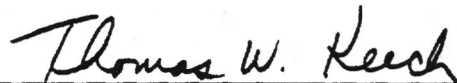
There has been no showing that the work offered was suitable. The work was substantially lower in both salary and level of responsibility than the claimant's previous job. More significantly, the work was part-time, temporary work. The claimant had been performing full-time, indefinite temporary work at the same job for a year and a half, and she was searching for full-time work.

Under all of these circumstances, the Board concludes that the claimant was not offered suitable work within the meaning of Section 8-1005.

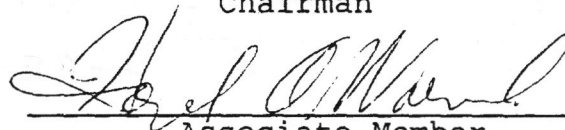
DECISION

The claimant did not voluntarily leave work, within the meaning of Section 8-1001 of the law. She did not refuse suitable work within the meaning of Section 8-1005 of the law. No penalty is imposed based upon his cessation of contacts within Sparks Personnel Services, Inc. The claimant may contact her local office regarding the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:HW

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - COLLEGE PARK

Recoveries - Room 413

 **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

— DECISION —

Claimant: Shireen M. Blair
Date: Mailed: 2/21/92
Appeal No.: 9201798
S. S. No.:
Employer: Sparks Personnel Services, Inc. No: 7
c/o J. Dunn Associates
Appellant: Claimant

Issue:

Whether the claimant was discharged for gross misconduct connected with the work, within the meaning of MD Code, Title 8, Section 1002.

— 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 3/9/92

— APPEARANCES —

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

Not Represented

FINDINGS OF FACT

The employer operates a temporary agency.

The claimant accepted an assignment that lasted from April 1990 through October 31, 1991, as an Administrative Secretary earning \$10.70 per hour.

Subsequently, she was called, but refused an assignment to do clerical work at \$8 per hour. She refused the assignment because it paid \$2 less than she was accustomed to earning.

CONCLUSIONS OF LAW

I find that the claimant was not discharged, but voluntarily quit.

The Maryland Code, Labor and Employment Article. Title 8. Section 1001 provides that an individual shall be disqualified for benefits where his unemployment is due to leaving work voluntarily, wit'bout good cause arising from or connected with the conditions of employment or actions of the employer. The preponderance of the credible evidence in the record will support a conclusion that the claimant voluntarily separated from employment, without good cause, within the meaning of Title 8, Section 1001.

In voluntary quit cases, the burden of proof is on the claimant. The claimant failed to carry the burden in this case. Given the length of her unemployment I find that her refusal to accept a similar position at \$8 per hour unreasonable.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of the Maryland Code, Labor and Employment Article, Title 8, Section 1001. Benefits are denied for the week beginning October 27, 1991 and until the claimant earns ten times the weekly benefit amount (\$1, 400) in covered employment, and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.

Van D. Caldwell

Van D. Caldwell
Hearing Examiner

Date of hearing: 2/13/92
rc/Specialist ID: 07215
Copies mailed on 2/21/92 to:

Claimant
Employer
Unemployment Insurance - College Park - MABS

Recoveries - Rm 413