

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (410) 333-5032

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

— DECISION —

Decision No.:	1687 -BR-92
Date:	Sept. 30, 1992
Claimant: Darius Smith	Appeal No.: 9211368
	S. S. No.:
Employer: Hondroulis, James	L. O. No.: 1
	Appellant: CLAIMANT
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of §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 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES

October 30, 1992

— 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.

The testimony of the claimant in this case was uncontradicted by any testimony from the employer, who did not appear at the hearing. The Hearing Examiner apparently found the claimant's testimony credible, but the written decision mentions only one of the reasons given by the claimant for quitting his job. The Board will make the additional findings of fact found below.¹

The claimant was dissatisfied with his shift and his working conditions for a number of reasons. The duties had changed from those agreed upon at the time of hiring, the claimant felt that he was unfairly overworked on his shift, and he had transportation problems.

The claimant obtained a second job at another store. The employer was not happy with this, and offered the claimant a higher rate of pay if he would refuse the second job. The claimant refused the second job as a result and was paid the higher rate at this job. Two to three weeks later, the claimant's higher pay rate was revoked, and his pay was set at the previous level.

The Board does not have to reach the issue of whether the changes in the claimant's job duties amounted to good cause, since the change in his salary definitely amounts to good cause by itself. A substantial detrimental change in the agreed-upon conditions of employment amounts to good cause. A reduction in pay is a detrimental change. This is an even more serious concern where one party has relied upon the higher pay rate and foregone another business opportunity (the second job) in order to accept it. This aspect of the case alone amounts to good cause.

DECISION

The claimant voluntarily quit, but for good cause, within the meaning of §8-1001 of the Labor and Employment Article. No disqualification is imposed based upon the claimant's separation from employment with Hondroulis, James.

¹The conclusions of law are also incorrect. A claimant need not demonstrate that he had no reasonable alternative other than to quit the employment, if good cause is otherwise shown, or if a insubstantial cause, connected with the conditions of employment" is shown.

The decision of the Hearing Examiner is reversed.

Thomas W. Keech
Chairman

Hazel A. Warwick
Associate Member

K:HW

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark W. Wasserman, Secretary

Gary W. Wiedel, Administrator
Louis Wm. Steinwedel, Chief Hearing Examiner

Room 511
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Telephone: (410) 333-5040

— DECISION —

Date: Mailed 6/23/92
Appeal No.: 9211368
S. S. No.:
Employer: Hondroulis, James
LO. No.: 01
Appellant: Claimant
Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of MD Code, Labor and Employment Article, Title 8, Section 1001.

— 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 BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE MARYLAND 21201, EITHER IN PERSON OR BY MAIL

July 8, 1992

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON

NOTE: APPEALS FILED BY MAIL INCLUDING SELF-METERED MAIL ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK

— APPEARANCES —

FOR THE CLAIMANT:

PRESENT, accompanied by
Angela Montgomery - Sister

FOR THE EMPLOYER:

NOT REPRESENTED

FINDINGS OF FACT

Claimant began working for Employer on October 15, 1990; his last day of work was August 7, 1991. He was employed full-time as a cashier and was compensated at the rate of \$6.25 per hour. Claimant voluntarily quit his job because he did not like the

work duties he was being assigned. He had been hired as a cashier, but was instructed to perform other tasks, such as cleaning up trash on the exterior of the premises and pulling weeds outside the store. Although he worked the 11 p.m. to 7 a.m. shift, Claimant felt that he should not have been scheduled to work that shift alone. Claimant voiced his complaints to his supervisor, but was told that it was not possible to change the circumstances.

CONCLUSIONS OF LAW

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, 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 will support a conclusion that the claimant voluntarily separated from employment, without good cause or valid circumstances, within the meaning of Title 8, Section 1001.

Claimant was not in a position where he had no reasonable alternative other than quitting his job. Consequently, he had neither good cause nor a valid circumstance for his voluntary separation from employment.

DECISION

It is held that Claimant voluntarily left his employment, but not for good cause or due to a valid circumstance. He is disqualified from receiving unemployment insurance benefits beginning August 4, 1991, and until such time as he might become reemployed and earn wages for covered employment in an amount equal to or greater than \$1,680, which amount is ten times his weekly benefit amount of \$168.

The determination of the Claims Examiner is affirmed.


Kevin C. Sippe
Hearing Examiner

Date of Hearing: 6/19/92
Specialist ID: 01039
ah/CASSETTE IN FILE

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Claimant
Employer
Unemployment Insurance - Baltimore (MABS)