

# Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

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William Donald Schaefer, 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.:    | 675-BR-88       |          |
|           | Date:            | August 5 , 1988 |          |
| Claimant: | Merlene M. Smith | Appeal No.:     | 8805286  |
|           |                  | S. S. No.:      |          |
| Employer: | A P G Inc.       | L. O. No.:      | 1        |
|           |                  | Appellant:      | EMPLOYER |

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.

**— 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 AT MIDNIGHT September 4, 1988

**— 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 Board adopts the Findings of Fact of the Hearing Examiner.

Based on these findings, the Board concludes that the claimant did not voluntarily quit her job within the meaning of Section 6(a) of the law. The term "leaving work" does not encompass a temporary interruption in the performance of services caused by a leave of absence. Muller v. Board of Education (144-BH-83). Although exceptions have been made in certain cases. e.g. Brown v. State of Maryland (356-BR-82) (three-year leave of absence, where the job would not be held open, constitutes a voluntary quit), Banning v. Eastern Shore Hospital Center (396-BH-84) (deliberate choice to take a certain type of leave of absence for the purpose of having the employer fill the job), the general rule is that taking a leave of absence does not trigger a disqualification under Section 6(a) of the law. Savage v. Church Hospital (1067-BH-83).

A penalty under Section 4(c) of the law, however, should be applied where a claimant removes herself from the job pursuant to a voluntary leave of absence. Muller, supra Mahon v. I.U.M.S.W.A. (100-BR-84); Manacher v. Maryland Office on Aging (782-BR-84). In such a circumstance, the person is not "available for work" within the meaning of Section 4(c) of the law until the expiration of the leave.

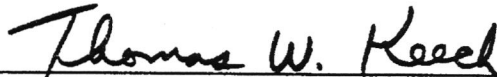
The claimant, therefore, should not be disqualified under Section 6(a) of the law but should be disqualified under Section 4(c) from the beginning of her leave of absence, April 11, 1988, and until she is available for work. As long as she remains on a voluntary leave of absence, she is not available for work.

#### DECISION

The claimant did not voluntarily quit her job within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. No penalty imposed under Section 6(a) of the law.

The claimant was not available for work within the meaning of Section 4(c) of the law. She is disqualified from benefits from April 11, 1988 and until she is available for work and meeting all the requirements of Section 4(c) of the law.

The decision of the Hearing Examiner is reversed.

  
Chairman

  
Associate Member