



# DEPARTMENT OF HUMAN RESOURCES

## EMPLOYMENT SECURITY ADMINISTRATION

1100 North Eutaw Street  
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### BOARD OF APPEALS

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### —DECISION—

	DECISION NO.:	1142-BH-83
	DATE:	October 5, 1983
CLAIMANT:	APPEAL NO.:	01614
Joel S. Swartz	S.S.NO.:	
EMPLOYER:	LO. NO.:	43
Packett's Pharmacy, Inc.	APPELLANT:	EMPLOYER

ISSUE: Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §6(a) of the law, whether the claimant was able to work, available for work and actively seeking work within the meaning of §4(c) of the law, and whether the claimant was unemployed within the meaning of §20(1) 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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT

November 5, 1983

### - APPEARANCE -

FOR THE CLAIMANT:

Joel Swartz - Claimant

FOR THE EMPLOYER:

Debbie Kutner-  
Owner  
Rose Ridgeway-  
Bookkeeper

### FINDINGS OF FACT

The claimant had been the president of Packett's Pharmacy, Inc. from September 28, 1972 to December 20, 1982. The claimant was also the owner of the close corporation which owned Packett's Pharmacy. He was also the pharmacist on the premises. He earned approximately \$900 a week. The claimant sold the corporation on December 29, 1982. The claimant sold the business for two different personal reasons: first, his wife's parents, who formerly worked in the store, were involved in a tragic airplane accident

and she was unwilling to continue to work in a store that reminded her of the terrible experience; second, the claimant himself was simply tired of working in the retail market and wished to get out of the business.

The claimant never inquired of the new owner of the corporation if there were work available for him at the new corporation because he had no desire at all to continue to work as a pharmacist on the premises. In fact, that is the reason he sold the business.

#### CONCLUSION OF LAW

The Board of Appeals has ruled in other cases that a person may be disqualified, under §6(a) of the law, for leaving self-employment, as well as leaving employment with others. This case could be considered either as the claimant giving up self-employment or as the claimant, owner of the business, manipulating the situation in such a way that he no longer had a job to perform as a pharmacist. Either way, the Board concludes that the claimant's reasons for leaving his employment as a pharmacist were totally voluntary. Furthermore, these reasons do not amount to good cause within the meaning of §6(a) of the Maryland Unemployment Insurance Law.

The reasons were entirely personal in nature. The disqualification imposed when a claimant has voluntarily left his last employment may be mitigated if the claimant left for a personal reason which is for such "necessitous and compelling" circumstances that the claimant had no reasonable alternative other than leaving the employment. Although the Board sympathizes with the claimant's family situation, the Board concludes that the claimant's reasons were not necessitous or compelling. Therefore, the maximum disqualification under §6(a) of the law must be imposed.

The Board can perceive no reason whatsoever why the claimant should be disqualified under §20(1) of the law. For this reason, the Board will affirm that particular part of the Appeals Referee's decision.

The Board will also affirm the decision of the Appeals Referee under §4(c) of the law, for the reasons given by the Appeals Referee.

#### DECISION

The claimant voluntarily left his employment, without good cause, within the meaning of §6(a) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning December 26, 1982, and until he becomes reemployed, earns at least ten times his weekly benefit amount (\$1,530.00) and thereafter becomes unemployed through no fault of his own. The decision of the Appeals Referee with regard to §6(a) of the law is reversed.

No disqualification is imposed under §20(1) of the law. The decision of the Appeals Referee with regard to §20(1) of the law is affirmed,

No penalty is imposed under §4(c) of the law. The decision of the Appeals Referee with respect of §4(c) of the law is affirmed.

  
Chairman

  
Associate Member

  
Associate Member

K:W:D

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CLAIMANT

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