

 **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.:	133-BR-93
Date:	January 27, 1993
Claimant: Michael Kenny	Appeal No.: 9221297
Employer: RWT, Inc. ATTN: Kerry Kanavan, Pres.	S. S. No.:
Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of §8-1001 of the Labor and Employment Article.	L. O. No.: 40
	Appellant: EMPLOYER

— 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

February 26, 1993

— 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.

After being attacked by an assailant wielding a knife while he was engaged in his work duties as a bouncer, the claimant requested a week or two off from his employer. The claimant's request was not due to his injuries but to the fact that he was being threatened by friends of the assailant.

The employer agreed to the claimant taking one to two weeks off, beginning August 13, 1992. Instead of taking one or two weeks, the claimant took five weeks. He then returned to the employer for a short time, then quit again on about October 24, 1992. The reason for the claimant quitting is not entirely clear in the record. His testimony was not consistent on this point.

The Hearing Examiner ruled that the claimant did not intend to leave his employment in August of 1992, and should not be penalized for voluntarily quitting in August. The Hearing Examiner did not rule on the claimant's separation from work in October.

The Board concludes that the claimant did voluntarily leave his employment in August by abandoning his job. Although the claimant did voluntarily leave at that time, he had "good cause," connected with the conditions of employment, for doing so. Since the claimant's job was as a bouncer, the threats resulting from his performance of his duties were related to his work, and his apprehensions about returning to the job were reasonable. No penalty will be imposed based upon the claimant's leaving of his job in August.

The claimant's leaving of his job again in October is another story. The claimant presented no definite reason why he left, but it appears that there was a suspicion that he, or a friend of his, had stolen a co-employer's car. There is no convincing evidence that he was directly accused by the management of this offense. The Board concludes that the claimant did not have good cause for leaving the job in October. The fact that someone suspects an employee of a crime is not sufficient reason to be either "good cause" or "valid circumstances" within the meaning of the Unemployment Insurance law. A penalty will be imposed therefore, for the claimant's leaving of the job in October.

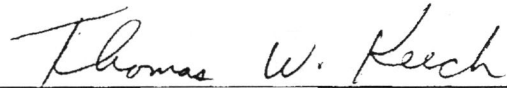
DECISION

In August of 1992, the claimant voluntarily left his employment, but for good cause within the meaning of §8-1001

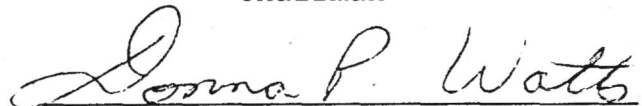
of the Labor and Employment Article.

On October 24, 1992, the claimant voluntarily quit his employment, without good cause or valid circumstances, within the meaning of §8-1001 of the Labor and Employment Article. Benefits are denied from the week beginning October 18, 1992 and until he becomes reemployed, earns at least ten times his weekly benefit amount (\$1,100) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:DW

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor

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Gary W. Wiedel, Administrator

Louis Wm. Steinwedel, Chief Hearing Examiner

Room 501

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Baltimore, Maryland 21201

Telephone: (410) 333-5040

— DECISION —

Date:	Mailed 11/9/92
Claimant:	Michael Kenny
Appeal No.:	3221297
S. S. No.:	
Employer:	RWT, Inc.
L. O. No.:	40
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 OF FURTHER APPEAL —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL 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.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES ON

November 24, 1992

NOTICE: 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

FOR THE EMPLOYER:

REPRESENTED BY:
Jerry Ruth, Sec./Treas.

FINDINGS OF FACT

The claimant filed for Unemployment insurance benefits establishing a benefit year, effective August 16, 1992 with a weekly benefit amount of \$110.00.

The claimant had been employed for some year and a half as a bouncer at the employer's bar at a pay rate of \$8.00 per hour for full-time employment. The claimant's last day of work was August 12, 1992. On that night, the claimant was injured by a man he caught he slashing tires of a car on the employer's parking lot. The employer and the claimant agreed the claimant should take a few weeks off and he did so. The time period of leave extended about five weeks and the claimant returned to his employment on or about October 24, 1992 and worked thereafter until a subsequent separation.

CONCLUSIONS OF LAW

The Maryland Code, Labor and Employment Article, Title 8, Section 1001 provides that an individual is disqualified for benefits when his/her unemployment is due to leaving work voluntarily. This section of the Law has been interpreted by the Court Of Appeals in the case of Allen v. CORE Target City Youth Program (275 Md. 69), and in that case the Court said: "As we see it, the phrase 'due to leaving work voluntarily' has a plain, definite and sensible meaning; it expresses a clear legislative intent that the claimant, by his or her own choice, intentionally, of his or her own free will, terminated the employment."

In the present case, the claimant did not quit the employment, but rather went on a mutually agreed upon leave of absence and then returned to the place of employment. No disqualification will be imposed under Section 1001 of the above cited provision of the Statute for his separation from this employment.

DECISION

The claimant did not voluntarily quit his employment, without good cause, within the meaning of Section 1001 of the Maryland Code. No disqualification is imposed and the claimant is entitled to benefits from August 9, 1992 and thereafter if otherwise eligible.

The determination of the Claims Examiner denying benefits is hereby reversed.



P.G. Hackett
HEARING EXAMINER

DATE OF HEARING: 11/5/92
Specialist ID: 40352
gr/CASSETTE IN FILE

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Claimant
Employer
Unemployment Insurance - Eastpoint (MABS)