

 **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

- DECISION -

Claimant:	Decision No.:	2013-BR-93
RICHARD W. STEELMAN	Date:	November 29, 1993
	Appeal No.:	9314903
	S.S. No.:	
Employer:	L.O. No.:	15
S E S TEMPS INC	Appellant:	Claimant

Issue: Whether the claimant left work voluntarily, without good cause within the meaning of Maryland Code, Labor and Employment Article, Title 8, Sections 1001.

- NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how the appeal can be found in many public libraries, in the Maryland Rules of Procedure, Title 7, Chapter 200.

The period for filing an appeal expires: December 29, 1993

REVIEW ON THE RECORD

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

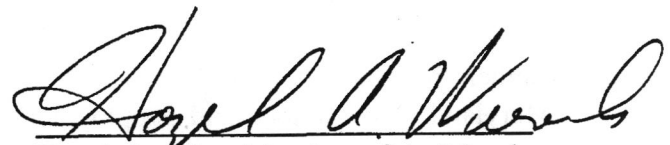
The general rule is that a worker for a temporary agency becomes unemployed the moment he finishes his remunerative assignment. As an unemployed person, he cannot be considered to have quit. Mayo v. AAA Temporary Overload, 422-BR-90. The reason behind this rule is to assure that those who take action to alleviate their unemployment by accepting a temporary assignment should not be treated more harshly than those who do less. Leitzel v Select Temporary Services, 493-BR-90.

Therefore, the Board concludes that the claimant did not voluntarily quit his job, within the meaning of LE, §8-1001. While the fact that the claimant went on vacation raises the issue of whether he was available for work, within the meaning of LE, §8-903, there is insufficient evidence in the record of this case to rule on this issue.

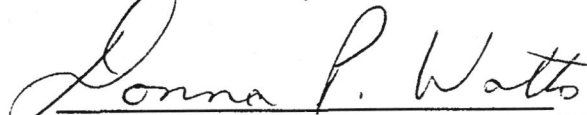
DECISION

The claimant did not voluntarily quit his employment within the meaning of Section 8-1001 of the Labor and Employment Article. He was discharged, but not for misconduct connected with his work, within the meaning of Section 8-1003 of the Labor and Employment Article. No disqualification is imposed.

The decision of the Hearing Examiner is reversed



Hazel A. Warnick, Associate Member



Donna P. Watts, Associate Member

km

Copies mailed to:

RICHARD W. STEELMAN
SES TEMPS INC
Unemployment Insurance - #15

UNEMPLOYMENT INSURANCE APPEALS DECISION

RICHARD W.. STEELMAN

Before the:

SSN #

Claimant

vs.

SES TEMPS INC

Employer/Agency

**Maryland Department of Economic and
Employment Development**

Appeals Division

1100 North Eutaw Street

Room 511

Baltimore, MD 21201

(401) 333-5040

Appeal Number: 9314903

Appellant: Claimant

Local Office: 15 / Westminster

August 31, 1993

For the Claimant: PRESENT

For the Employer: PATRICK CUNNINGHAM

For the Agency:

ISSUE(S)

Whether the claimant's separation from this employment was for a disqualifying reason within the meaning of the MD. Code Annotated, Labor and Employment Article, Title 8, Sections 1001 (Voluntary Quit for good cause), 1002 -1002.1 (Gross/Aggravated Misconduct connected with the work), or 1003 (Misconduct connected with the work).

FINDINGS OF FACT

The claimant's first day of work was March 2, 1993, the claimant's last day of work was June 23, 1993. The claimant's hourly rate of pay was \$7.00 and hour, he was an equipment assembler.

The claimant's work ended on June 23, 1993. The claimant says that he called on to Denise the corporate office manager asking her for another work assignment on June 25, at 8:00 in the morning and she said that she had none for him at that point, the claimant went on vacation from June 25, 1993 through about July 12, 1993. The records of the employer show that on June 25, at approximately 10:30 in the morning and again on June 28, at approximately 3:46 in the afternoon, they called the claimant at his home to offer him another job. The claimant was not available for either call. The claimant further called July 12, 1993 and asked for another assignment which was unavailable to him. The employer's view is that the claimant never called at all after his assignment

ended on June 23, 1993. I find the credibility of both parties to be equal. In this case, it is the claimant's burden to prove a voluntary quit. In situations where the testimony of the parties is equipoise the moving party fails to carry its burden. In this case, the claimant has failed to carry its burden.

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. 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.

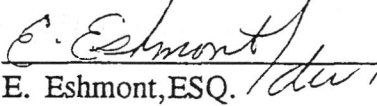
EVALUATION OF EVIDENCE

The credibility of the witness for both sides was an equipoise. The claimant had the burden of proof. He failed to carry that burden. Therefore, this case is a voluntary quit without good cause.

DECISION

It is held that the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of the Maryland Unemployment Insurance, Law, Title 8, Section 1001. Benefits are denied for the week beginning June 20, 1993 and until the claimant becomes re-employed and earns at least fifteen times his weekly benefit amount in covered wages and thereafter becomes unemployed through not fault of his own.

The determination of the Claims Examiner below is affirmed.


E. Eshmont, ESQ.
Hearing Examiner

Notice of Right to Petition for Review

Any party may request a review **either in person or by mail** which may be filed in any local office of the Department of Economic Employment Development, or with the Board of Appeals, Room 515, 1100 North Eutaw Street, Baltimore, MD 21201. Your appeal must be filed by September 15, 1993

Note: Appeals filed by mail are considered timely on the date of the U.S. Postal Service postmark.

Date of hearing: August 26, 1993

dw/Specialist ID: 15778

Seq. No.: 003

Copies mailed on August 31, 1993 to:

RICHARD w. STEELMAN

SE SES TEMPS INC

LOCAL OFFICE #15