



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032

—DECISION—

STATE OF MARYLAND
HARRY HUGHES
Governor

BOARD OF APPEALS
THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

DECISION NO.: 437-BH-84

DATE: April 26, 1984

APPEAL NO.: Ben. Det. 408A

S.S.NO.:

CLAIMANT: Ira Clugston, et. al .

LO. NO.: 13

APPELLANT: CLAIMANTS

EMPLOYER: R M R corporation

ISSUE Whether the claimant's unemployment is due to a stoppage of work, other than a lockout, which exists because of a labor dispute within the meaning of §6(e) 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 MAY BE 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

May 26, 1984

—APPEARANCE—

FOR THE CLAIMANT

FOR THE EMPLOYER

Ilene Rothwell - Claimant
Dorothy McNalt - Claimant
Victoria Hedian - Attorney

Joseph Pokempener -
Attorney
Robert Hill -
Personnel Manager

EVIDENCE CONSIDERED

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Employment & Training's documents in the appeal file.

FINDINGS OF FACT

The individual claimants, were members of local 2368 of the International Brotherhood of Electrical Workers, a labor union. However, they did not participate in any decision to engage in a labor dispute with the employer herein in connection with the labor dispute which occurred on or about August 16, 1983.

All of these claimants had been laid off from work by the employer herein months before August 16, 1983, by reason of a lack of work. While the claimants were in lay-off status, the contract under which they had previously been employed, before lay off, expired by its terms on August 15, 1983. As a result, on August 16, 1983, there was a stoppage of work, other than a lockout, because of a labor dispute between this employer and International Brotherhood of Electrical Workers at the premises from which the claimants had been laid off. Work became available as a result of the stoppage of work. On the same date that the stoppage of work began, the employer offered such available work to these claimants who refused to accept it because of the labor dispute.

The Special Examiner held that the claimants were disqualified for benefits because their refusal to cross the picket line in response to the call to return to work constituted participation in the labor dispute within the meaning of §6(e) of the law. The claimants appealed.

CONCLUSIONS OF LAW

Section 6(e) of the Maryland Unemployment Insurance Law provides that a claimant for unemployment insurance benefits shall be disqualified for them:

For any week with respect to which the Executive Director finds that his unemployment is due to a stoppage of work, other than a lockout, which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the Executive Director that --

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.