

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032

Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

	Decision No.:	567 -BR-92	
	Date:	March 25, 1992	
Claimant	Leopoldo Bacod	Appeal No.:	9120527
	S. S. No.:		
Employer:	Bendix Field Engineering Corp.	L. O. No.:	50
	Appellant		CLAIMANT

Issue: Whether the claimant filed a valid and timely appeal, within the meaning of Section 8-806(e)2 of the Labor and Employment Article; whether the claimant left work voluntarily, without good cause, within the meaning of Section 8-1001 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, 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

April 24, 1992

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, including a review of the additional document (passport pages) mailed in by the claimant with his appeal, the Board of Appeals reverses the

decision of the Hearing Examiner on the issue of good cause for late appeal. It now appears that the claimant was out of the country on an urgent mission before the determination was issued. Under the circumstances, the Board concludes that the claimant has good cause for filing his appeal late.

The claimant was employed by Bendix Field Engineering Corporation for 10-1/2 years. The first 9 years were in Guam, where the claimant attained the position of senior electronic technician. The facility in Guam closed. Rather than be laid off, the claimant accepted a transfer to Maryland. The claimant was given a small increase in pay, but his responsibilities were decreased to those of a maintenance and operating technician.

After about a year in Maryland, the claimant requested a transfer to a higher position, and he requested that he be relocated to California, where some of his family resided. The employer put the claimant on a transfer list, but when nothing occurred by July 30, 1990, the claimant went on a leave of absence. This leave of absence was extended four times, and would not have expired until July 31, 1991. During some of this time, the claimant attended courses to improve his job skills. At all times during his leave of absence, the claimant's previous job was available to him. The claimant had a good record at work, and his work quality and loyalty to the company made him a valued employee.

The claimant repeatedly applied for transfers during his leave of absence. Finally, on July 11, 1991, he resigned.

The Board concludes that he left his work voluntarily, without good cause. Had the claimant refused the transfer to Maryland, the claimant would have had good cause. Refusal of a transfer to a position of lesser responsibility halfway around the world would certainly constitute good cause. But, in this case, the claimant did not refuse the transfer. He accepted the transfer, and the small raise involved. He then worked at the new position for over a year before leaving. There is no evidence that there was any substantial change in the job in Maryland after the claimant took the job. When a claimant accepts a new position and works at it for over a year, that position becomes the status quo, and the claimant would have to show a change in the new position in order to prove good cause.

The claimant also has not shown "valid circumstances" for leaving work. The new job duties simply didn't change, and they did not constitute a substantial cause for leaving. The claimant has alleged no personal reasons which would meet the test of being "necessitous or compelling" reasons for leaving the employment. Since valid circumstances have not been shown, the maximum penalty must be imposed.

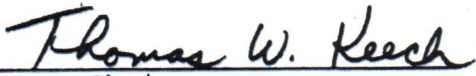
The penalty should begin the week of the claimant's resignation.

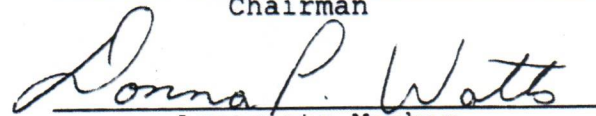
DECISION

The claimant had good cause for filing his appeal late, under Section 8-806(e)(2).

The claimant voluntarily quit, without good cause or valid circumstances, within the meaning of Section 8-1001 of the Labor and Employment Article. He is disqualified from receiving benefits from the week beginning July 7, 1991 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$2,230), and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is modified.


Chairman


Associate Member

K:DW

kbm

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CLAIMANT

EMPLOYER

OUT-OF-STATE CLAIMS



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

Date: Mailed: 01/3/92
Appeal No.: 9120527
S. S. No.:
Claimant: Leopoldo C. Bacod
Employer: Bendix Field Engineering Corp No.: 50
Appellant: Claimant

Issue:

Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of MD Code, Labor and Employment Article, Title 8, Section 1001.

— NOTICE OF RIGHT TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

January 20, 1992

— APPEARANCES —

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Represented by:
Michael Mayer,
Manager of Labor
Relations

FINDINGS OF FACT

A benefit determination mailed to the parties provides that the last day to file a timely appeal was September 10, 1991.

In this case, the appeal was either postmarked or filed in person in California by the claimant on November 6, 1991.

The appellant offers as a reason for late appeal that he was required to go the Philippines to assist his wife who was giving birth to his child. The claimant states that he left for the Philippines on or about September 13 or 15, 1991 and came back to his residence in California on or about November 15, 1991. However, the claimant's trip did not begin until the expiration date for his appeal.

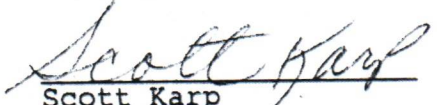
CONCLUSIONS OF LAW

In Premick v. Roper Eastern (141-BR-83), the Board of Appeals conferred upon the Appeals Division its own jurisdiction granted pursuant to Maryland Code, Labor and Employment Article, Section 806 (e)(f)2 to rule upon the issue of timeliness of appeal as well as the issue of good cause in the filing of a late appeal. In the instant case, the evidence will support a conclusion that the appellant filed a late appeal for reasons which do not constitute good cause under the provisions of Maryland Code, Labor and Employment Article, Title 8, Section 806 (e)(f)2 and legal precedent construing that action.

DECISION

It is held that the appellant did not file a valid and timely appeal within the meaning and intent of Maryland Code, Labor and Employment Article, Title 8, Section 806 (e)(f)2.

The determination of the Claims Examiner (and any disqualification applied), remains effective and unchanged.

 ec
Scott Karp
Hearing Examiner

Date of Hearing: 12/17/
ec/Specialist ID: 50520
Cassette No: None
Copies mailed on 01/3/92 to:

Claimant
Employer
Out-of-State Claims (MABS)

Bendix Field Engineering Corp.