

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033



William Donald Schaefer, Governor
J. Randall Evans, Secretary

BOARD OF APPEALS

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

— DECISION —

Decision No.: 649-BH-88
Date: July 29, 1988
Claimant: Jimmy Kinion
Appeal No.: 8800274
S. S. No.:
Employer: Div. of Parole & Probation
L. O. No.: 7
Appellant: CLAIMANT

Issue:

Whether the claimant was discharged for gross misconduct or misconduct, connected with his work, within the meaning of Section 6(b) or 6(c) of the law; whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law; and whether the claimant was able, available and actively seeking work within the meaning of Section 4(c) 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, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

August 28, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

Jimmy Kinion, Claimant

FOR THE EMPLOYER:

John Renehan, Field
Supervisor;
T.F.C. Dofflemyer,
Witness

EVALUATION OF EVIDENCE

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 Economic and Employment Development's documents in the appeal file.

FINDINGS OF FACT

The claimant was employed as a probation officer. As a result of the claimant's behavior on the evening of September 13, 1987, disciplinary action was brought against the claimant by his employer. As part of the disposition of that matter, " the claimant agreed to take a leave of absence without pay for personal reasons. The claimant returned to work with this employer after his leave of absence.

CONCLUSIONS OF LAW

The Board has held that a leave of absence is not a voluntary quit. The term "leaving work" refers only to an actual severance of the employment relationship and does not encompass a temporary interruption in the performance of services caused by a leave of absence. Muller v. Board of Education, 144-BH-83.

The claimant's leave of absence did not sever his employment relationship, notwithstanding the fact that his job was not guaranteed. Savage v. Church Hospital, 1067-BH-83.

The Board has also held that a claimant who voluntarily removes himself from the work force for a substantial period of time, pursuant to a leave of absence granted at his request, is not "available for work" within the meaning of Section 4(c) of the law. Wallnofer V. Transit and Traffic, 459-BH-84.

DECISION

The claimant was on a voluntary leave of absence, during which time he was not available for work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. The claimant is therefore disqualified from receiving benefits from the week beginning September 27, 1987 and until he meets the requirements under this section of the law. (In this case the claimant was not available for work any time prior to his reinstatement with the Division of Parole and Probation.)