Maryland
Department of Economic & Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

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

— DECISION —

Decision No.: 23-BR-91

Date: January 7, 1991

Claimant: Charles T. Butts

Appeal No.: 9013323

S. S. No.:

Employer: Frederick Foundry & Machine, Inc.

L O. No.: 4

Appellant: CLAIMANT

Issue:

Whether the claimant filed a valid and timely appeal, within the meaning of Section 7(c)(3) of the law; whether the claimant failed, without good cause, to apply for or to accept available, suitable work within the meaning of Section 6(d) 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 AT MIDNIGHT ON February 6, 1991

— 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 with respect to Section 7(c)(3) of the law. The Board concludes that the

claimant had good cause for filing his appeal late in this case. The claimant had received a similar determination disqualifying him for voluntarily quitting the same employer. The claimant had appealed that decision and had obtained a Hearing Examiner's decision on the appeal. This determination (a COPY of which is not in the record in this case) apparently disqualified this claimant for failing to accept work with this same employer. When the claimant received this, he assumed that this was the matter which he had already taken care of by going to the Hearing Examiner's hearing in his 6(a) case (case #9011664). The reasons for the claimant's confusion are understandable in this case. Under the mandate of the statute, which requires that the merits of cases be reached whenever possible, the Board will find that the claimant had good cause for filing his appeal late within the meaning of Section 7(c)(3) of the law.

On the merits, the Board reverses the decision of the Claims Examiner. The Board has previously ruled that, where a maximum penalty is imposed under Section 6(a) of the law for leaving employment, an additional penalty cannot be imposed under Section 6(d) of the law for refusing to return to that same employment. This is true at least where the reason for refusing to return to the old employment is the same reason that the claimant quit the employment in the first place. As the Board pointed out, once a claimant has been given the maximum penalty under Section 6(a) of the law, the statute clearly intends that no further penalty be imposed in this situation. Reynolds v. Golden World Travel (591-BR-83), Buchan v. Salisbury Employment Office (708-BR-83).

In this case, of course, the claimant was not given the maximum penalty under Section 6(a) of the law. The reasons for his voluntarily leaving his employment were adjudicated, however, in case #9011664. In that case, the Hearing Examiner found that the claimant had "valid circumstances" for leaving his employment within the meaning of Section 6(a), due to the employer's failure to honor its predecessor's agreement with the claimant, resulting in the claimant being dunned for a $6,000 debt which the predecessor employer should have paid. Ruling that this reason was a substantial cause connected with the conditions of employment, the Hearing Examiner imposed only a five-week penalty under Section 6(a) of the law.

This case concerns the fact that the claimant was offered his same job back by the same employer a few weeks later. The claimant refused this job for the same reasons that he originally quit it. That is, the employer's predecessor still had not paid the $6,000, and this employer still refused to pay it. In addition, even this successor employer had not