DEPARTMENT OF EMPLOYMENT AND TRAINING

BOARD OF APPEALS
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– DECISION —

Decision No.: 2 97-BR-85

Date: May 17, 1985

Claimant: Claudette O. Ervin

Appeal No.: 08241 & 08242

S. S. No.:

Employer: Government Service Saving & Loan

LO. No.: 43

Appellant: CLAIMANT

Issue Whether the claimant failed, without good cause, to accept suitable work when offered within the meaning of §6(d) of the law, and whether the claimant was able, available and actively seeking work within the meaning of $4(c) of 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 ON June 16, 1985

— APPEARANCES –

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

The Board hereby consolidates cases 08241 and 08242.

Upon review of the entire record in this case, the Board of Appeals reverses the Appeals Referee's decision in case no. 08242. In case no. 08241, the Board of Appeals affirms the decision of the Appeals Referee, 'but for different reasons from those stated by the Appeals Referee.

In case no. 08242, the testimony is less than clear, but the Board finds as a fact that the claimant, who resided in Waldorf, was willing to work in her immediate area and in any area which could be reached conveniently by public transportation. This area included the entire city of Washington, D.C. and, apparently, some suburbs of Washington, D.C. The claimant ruled out from her area of employment only those suburbs of Washington, D.C. which could be reached only by taking a bus line from Waldorf, Maryland into Washington, D.C., then transferring by one or more buses to that suburb. According to the uncontradicted testimony of the claimant, bus transportation from Waldorf to downtown Washington was at such restricted hours that it would be impossible for her to work on a normal work day schedule in these relatively distant suburbs. The evidence is not very clear in this case, but it does tend to show that the claimant had public transportation available and was willing to accept work at any location which could be reached by this transportation within the normal work day. The claimant, however, had not really investigated the transportation problem to any great extent.

On the whole, the Board concludes that the claimant was primarily disqualified under §4(c) because she did not have private transportation available to her. This is in conflict with the Court of Appeals decision in Emp. Sec. Admin. v. Smith, 282 Md. 267, 383 A.2d 1108 (1978). For this reason, although the record is not very clearly developed, the Board concludes that there is insufficient evidence to disqualify the claimant under §4(c) of the law.

In case 08241, the Board will make the following findings of fact. In making these findings, the Board has considered the claimant's testimony to be less than credible. The Board notes, for example, that the claimant's sworn testimony concerning the conditions of her maternity leave of absence were in contradiction to her letter to Congressman Dyson which was entered into the appeal file. The Board will find as a fact that the claimant was granted a leave of absence in February, 1984 until June 5, 1984, that there was no assurance on the part of her employer that she would be returned to her exact same job at the conclusions of her leave of absence, that she was offered her exact same job at the exact same (Silver Hill) location just subsequent to the expiration of her leave of absence and that she decided after a few weeks' hesitation not to take that job. The Board rejects the claimant's testimony to the extent that it was in conflict with these findings of fact. Her reasons for not taking the job are not entirely clear, but it appears that the claimant was unwilling to enter into child care arrangements.

Based upon these new findings of fact, the Board concludes that the job which the claimant was offered was suitable work within the meaning of §6(d) of the law. In fact, it was the claimant's same job. The claimant's reason for refusing the job, that she