



DEPARTMENT OF EMPLOYMENT AND TRAINING

BOARD OF APPEALS
1100 NORTH EUTAW STREET
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STATE OF MARYLAND

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— DECISION —

Decision No.: 718-BH-84

Date August 21, 1984

Claimant: Marlyn Hill

Appeal No.: 13421, FSC-87,
EB-991

S. S. No.:

Employer: Whitey & Dots

LO. No.: 40

Appellant REMAND FROM
COURT

Issue:

Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §6(a) of the law; whether the claimant is eligible for Federal Supplemental Compensation benefits within the meaning of §21(i); whether the claimant is eligible for extended unemployment benefits within the meaning of 521(i); whether the claimant was able, available, and actively seeking work within the meaning of §4(C); and whether the claimant's failure to file a timely and valid appeal was for good cause within the meaning of §7(c) (ii) 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 ON September 20, 1984

— APPEARANCES —

FOR THE CLAIMANT

FOR THE EMPLOYER:

Marlyn Hill, Claimant;
Richard Waldt, Attorney

Department of Employment & Training
John Roberts - Special Counsel

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 and Training's documents in the appeal file.

FINDINGS OF FACT

The Board of Appeals makes the following Findings of Fact, based on the entire record in this case.

The claimant was employed as a cook at Whitey and Dots Restaurant. Her job was to prepare food and also to stock the kitchen. This latter occupation required her to carry stock into the kitchen weighing up to fifty pounds. The claimant had also worked at the same establishment in the capacities of bartender and waitress. She also had work experience as a cashier, a payroll clerk, and an accounting clerk. She is able to type.

The claimant was pregnant, and as a direct result of this pregnancy, she became unable to perform her job of cook at Whitey and Dots Restaurant on August 7, 1981. She was told by her employer that she could return to her job after the baby was born. The claimant then began an active search for various other types of work for which she was qualified by her experience. The claimant's doctor had stated that she could continue to work at a less demanding position. On about September 18, 1981, however, the claimant's pregnancy became so advanced that she stopped looking for work. Her baby was born on September 25, 1981 and she was incapacitated for approximately another six weeks. After that time, she attempted to return to work at her former employer's but was informed that work was slow and she would not be rehired. At that point, she attempted to find other employment.

CONCLUSIONS OF LAW

The Board adopts the previous Conclusions of Law in Decision No. 153-BR-83 with regard to whether the claimant had good cause for filing a late appeal of her disqualification, under §7(c) (ii) of the law.

With regard to §6(a) of the law, the Board of Appeals reverses its previous decision and finds that the claimant's reason for separation from employment, although not good cause within the meaning of §6(a) of the law, nevertheless cannot be used as a reason to disqualify her from benefits under the Federal law, 26 USC §3304(a) (12) as interpreted by the United States Court of Appeals for the Fourth Circuit in Brown v. Porcher, 660 F.2d