

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

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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.: 830-BR-88

Date: Sept. 13, 1988

Claimant: Mark Tuck

Appeal No: 8805834

S. S. No.:

Employer:

L. O. No.: 15

Appellant: CLAIMANT

Issue: Whether the claimant failed, without good cause, to apply for or accept an offer of 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.

October 13, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— 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 and concludes that the claimant did not refuse suitable work offered to him,

within the meaning of Section 6(d) of the law. Therefore, no penalty is appropriate.

The undisputed evidence is that the claimant was a carpenter mechanic who was earning in excess of \$12.00 an hour at the time of his separation from employment on or about April 22, 1988. Approximately three weeks later, on his own initiative, he inquired about work at Westminster Kitchens. However, the job which was offered him, turned out to be as a carpenter's helper and paid only \$6.50 an hour.

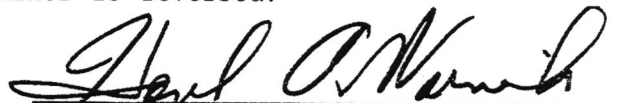
The claimant's refusal is completely justifiable because the work offered was not suitable, pursuant to Section 6(d) of the law. In Armstrong v. Creative Staffing, Inc., the Board held that a claimant who normally commanded approximately \$15,000 per year and also had taken a lower paying job temporarily (while she was pregnant) did not refuse suitable work when she was later offered another low paying job of a similar nature. The Board held that the claimant's acceptance of that job under special circumstances did not make such a job automatically "suitable" for her at all times in the future.

In this case, similar reasoning leads the Board to conclude that the claimant's mere inquiry about such a position should not automatically require him to accept it, where it is a lower classification, paying almost half of his annual salary. The Board notes that by June 16, 1988, the claimant had attained a job paying \$12.50 an hour and was still employed at the time of the hearing. Considering the relatively short period of unemployment, the significantly lower salary, the lower job classification and the fact that the claimant had good prospects of employment at his old salary level, the job references was not suitable within the meaning of Section 6(d) of the law.

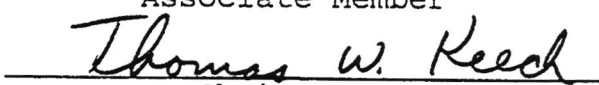
DECISION

The claimant did not refuse suitable work within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law. No disqualification is imposed under this section of the Law.

The decision of the the Hearing Examiner is reversed.



Associate Member



Chairman