



DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032

- DECISION -

BOARD OF APPEALS

JOHN J. KENT
Chairman

HENRY G. SPECTOR
HAZEL A. WARNICK

Associate Members

SEVERN E. LANIER
Appeals Counsel

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN
Secretary

DECISION NO.: 215-BR-82

DATE: March 5, 1982

APPEAL NO.: 25473

S. S. NO:

CLAIMANT: Ruffie London

EMPLOYER: Baltimore City Schools

L. O NO.: 45

APPELLANT: CLAIMANT

ISSUE

Whether the Claimant was separated from employment for voluntarily quitting his employment within the meaning of Section 6(a) of the Law; whether the Claimant may be paid benefits based on his service for Baltimore City Schools under Section 4(f)(3) 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 SUPERIOR 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

April 4, 1982

-APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon a review of the record in this case, the Board of Appeals disagrees with the reasoning and conclusions of the Appeals Referee.

The Claimant is unemployed because he voluntarily applied for a leave of absence from his teaching position. Under Section 4(f)(3) of the Maryland Unemployment Insurance Law, a teacher may not be paid benefits based on the teaching service "if an agreement provides. . .for a similar period between two regular but not successive terms," if the teacher performed teaching services in the first of the these two terms and if the teacher has a contract or reasonable assurance of returning in the second academic year.

The word "similar" in the clause quoted above refers to a period similar to a paid sabbatical leave or to a vacation between terms. The Board has ruled that a teacher's voluntary leave of absence to further his or her education is a "similar period" within the meaning of this section. See, Greene v. Salisbury State College, Board Decision Number 1160-BR-81

The Claimant, who has an agreement for a similar period of leave between two non-successive academic years, and who has a reasonable assurance of returning in the following academic year, is thus disqualified from receiving any benefits based on service with the Baltimore City School System under Section 4(f)(3) of the Law.

Although the Claimant did voluntarily leave his employment, the proper disqualification is found under Section 4(f)(3). The Board does not agree with the Referee's decision that the Claimant had not left his employment. For the reason stated above, the Board, as did the Appeals Referee, will reverse the Claims Examiner's determination under Section 6(a) of the Law, but for a different reason.

There is insufficient evidence that the Claimant is not meeting the requirements of Section 4(c) of the Law.

DECISION

Under Section 4(f)(3) of the Law, the Claimant is disqualified from the receipt of benefits based on employment with the Baltimore City School System. This disqualification covers the period between June 30, 1981 and the beginning of the academic year in September of 1982.

The Claimant is able, available and actively seeking work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. He is entitled to benefits from September 20, 1981, if he is otherwise eligible under the Law.

The decision of the Appeals Referee is reversed.



Chairman



Associate Member

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - PIMLICO



STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

DEPARTMENT OF HUMAN RESOURCES
 EMPLOYMENT SECURITY ADMINISTRATION
 1100 NORTH EUTAW STREET
 BALTIMORE, MARYLAND 21201
 383 - 5040

BOARD OF APPEALS

JOHN J. KENT
 Chairman
 HENRY G. SPECTOR
 HAZEL A. WARNICK
 Associate Members

SEVERN E. LANIER
 Appeals Counsel

GARY SMITH
 Chief Hearings Officer

- DECISION -

CLAIMANT: Ruffie London

DATE: 2/2/82

APPEAL NO.: 25473

S. S. NO.:

EMPLOYER: Baltimore City Schools

L. O. NO.: 45

APPELLANT: Claimant

ISSUE:

Whether the unemployment of the claimant was due to leaving work voluntarily without good cause, within the meaning of Section 6(a) of the Law.

NOTICE OF RIGHT OF FURTHER APPEAL

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON

Feb. 17, 1982

APPEARANCES -

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

Charles Spinner,
 Personnel Tech-IV
 Civil Service Commission
 Winy Kimbrow,
 Staff Specialist
 Personnel Department
 Baltimore City Schools

FINDINGS OF FACT

The claimant, employed as a Teacher of exceptional children by the Baltimore City School System requested and was granted a study leave of absence effective from September 1, 1981 through JUNE 30, 1982. He is scheduled to return to employment with the school system in September 1982.

The claimant performed teaching services through the end of school, in June, 1981. He filed for Unemployment Insurance Benefits establishing a benefit year September 20, 1981. The claimant was accepted by Coppin State College in the Fall of 1981 as a special student.

COMMENTS

The evidence presented will not sustain a finding that the claimant voluntarily left his employment. The evidence shows that he is on a leave of absence and is scheduled to return to the school system in September 1982. Under these circumstances the disqualification will be imposed under eligibility provisions of Section 4(c) of the Law in that the claimant's status is an undue restriction on his availability and therefore, disqualifying.

DECISION

The unemployment of the claimant is due to a non-disqualifying reason within the meaning of Section 6(a) of the Law. Benefits are not denied for the week beginning June 28, 1981 and thereafter under this provision of the Statute.

The determination of the Claims Examiner on this issue is hereby reversed.

The claimant is not meeting the eligibility requirements of Section 4(c) of the Law. Benefits are denied from September 20, 1981, the effective date of the claim and thereafter until he meets the eligibility requirements of the Law.

Date of Hearing: 1/13/82

rc

(044&045)-Hubert

Copies mailed to:

Claimant
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Unemployment Insurance - Pimlico