

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (410) 333-5032

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

— DECISION —

Decision No:	673-BR-93
Date:	April 16, 1993
Claimant: Colette K. Hurt	Appeal No: 9301359
	S. S. No.:
Employer:	L. O. No.: 50
	Appellant: CLAIMANT
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of §8-1001 of the Labor and Employment Article.

—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

May 16, 1993

— 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.

The claimant left her work on November 13, 1992. She left her employment in order to relocate with her husband, who had secured another job in the state of Virginia. She inquired about resigning with her employer but was advised that she should take a one-year leave of absence instead. The claimant left the state with her husband and began looking for work in Virginia. She never had any intention of returning from her leave of absence, and she told her employer this.

The claimant is certainly not employed, as she is not performing any services for which wages are payable. See, §8-801 of the Labor and Employment Article.

The claimant voluntarily quit her employment. As the Board ruled in Colditz v. Board of Education of Washington County (794-BR-84), where an employee accepts a leave of absence for the purpose of relocating to another state, and where the employee has no intention of returning to her job or to Maryland, the claimant is considered to have voluntarily quit. The leave of absence in this case was a pure technicality, as the claimant intended to leave her job and never return, and she told her employer of her intention from the first. See, Cumulative Supplement to the Digest of Maryland Unemployment Decisions (MICPEL, 1987) at §6aA07.

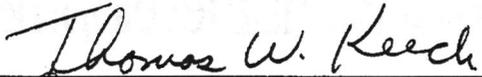
Voluntarily leaving one's work to relocate to accompany a spouse to a new locality, however, is a situation specifically dealt with by the law. In §8-1001(d)(2), the law states that this reason is neither "good cause" nor "valid circumstances," and that the maximum penalty must be imposed.

DECISION

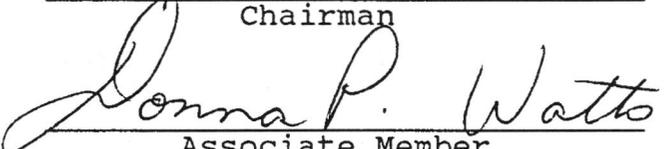
The unemployment of the claimant was due to leaving work voluntarily, without good cause or valid circumstances, within the meaning of §8-1001 of the Labor and Employment Article. She is disqualified from receiving benefits from the week beginning November 8, 1992 and until the claimant becomes reemployed, earns at least ten times her weekly benefit amount (\$2,190) and thereafter becomes unemployed through no fault of her own.

No penalty is imposed under §8-903 of the law.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:DW

kbm

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CLAIMANT

OUT-OF-STATE CLAIMS



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor
Mark W. Wasserman, Secretary

Gary W. Wiedel, Administrator
Louis Wm. Steinwedel, Chief Hearing Examiner

Room 511
1100 North Eutaw Street
Baltimore, Maryland 21201

— DECISION —

Claimant:	Colette K. Hurt	Date Mailed:	2/12/93
		Appeal No.:	9301359
		S. S. No.:	
Employer:		L.O. No.:	50
		Appellant:	Claimant

Issue: Whether the claimant was able, available and actively seeking work, within the meaning of MD Code, Title 8, Section 903.

— NOTICE OF RIGHT TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAYBE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND Employment DEVELOPMENT, OR WITH THE BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON

3/1/93

NOTE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK

— APPEARANCES —

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

Other: Thelma Brown,
Claims Specialist
Dept. of Economic and
Employment Development

FINDINGS OF FACT

The claimant's benefit year began on December 13, 1992. On

November 13, 1992, the claimant took a leave of absence from her employment for one year through November 13, 1993. The claimant has since moved to Portsmouth, Virginia to join her husband.

CONCLUSIONS OF LAW

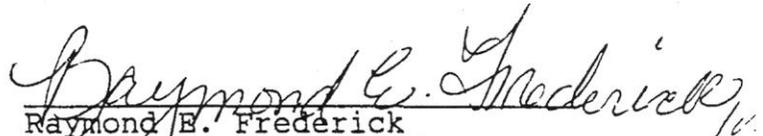
The Code of Maryland, Labor and Employment Article, Title 8, Section 903 and 904 provides that a claimant for unemployment insurance benefits must be (1) able and available for work and (2) actively seeking work without restrictions upon his/her availability for work. In Robinson v. Employment Security Board (202 Md. 515). The Court of Appeals upheld the principle that a claimant may not impose restrictions upon his/her willingness to work and still be "available" as the Statute requires.

As the claimant was on a leave of absence from her employment December 13, 1992, she is deemed under the Maryland Unemployment Insurance Law, to be still employed and as such is not able and available for work and actively seeking work without restrictions upon her availability within the meaning of the Maryland Code, Labor and Employment Article, Title 8, Section 903. The local office Agency's Claims Specialist testified that the claimant had taken a leave of absence on November 13, 1992 and intended to return to work on November 13, 1993. The benefit determination of the Claims Examiner will be affirmed.

DECISION

The claimant was not able, available, or actively seeking full-time work, within the meaning of the 'Maryland Code, Labor and Employment Article, Title 8, Section 903. Benefits are denied for the week beginning December 13, 1992 and until meeting all of the eligibility requirements of the Law.

The determination of the Claims Examiner is affirmed.


Raymond E. Frederick
Hearing Examiner

Date of hearing: 2/10/93
rc/Specialist ID: 50506
SEQ 06
Copies mailed on 2/12/93 to:

Claimant
Out of State Claims - MABS