



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: 383-5032

BOARD OF APPEALS
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—DECISION—

	DECISION NO.:	896-BH-83
	DATE:	July 20, 1983
CLAIMANT: S. Louise Sortino	APPEAL NO.:	10748
	S.S.NO.:	
EMPLOYER: Western Auto Supply Co .	L.O.NO.:	40
	APPELLANT:	REMAND FROM COURT REOPENED CASE CLAIMANT APPEAL
ISSUE	Whether the Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §6(a) of the Law; and whether the Claimant failed, without good cause, to file a timely and valid appeal 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 August 19, 1983

— APPEARANCE —

FOR THE CLAIMANT:

S. Louise Sortino - Claimant
Hyman K. Cohen - Atty. At Law
George Sortino - Witness

FOR THE EMPLOYER:

Not Represented

EMPLOYMENT SECURITY ADMINISTRATION
John Zell - Legal Counsel

INTRODUCTION

The Board of Appeals apologizes for the delay in issuing this decision.

This case was remanded to the Board by the Superior Court of Baltimore City on April 21, 1982, for a rehearing on the question of whether the Claimant had good cause to file a late appeal, pursuant to §7(c) (ii) and, if the Board finds that there was good cause, for a decision on the merits.

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 Employment Security Administration's documents in the appeal file.

ISSUE 1. Whether the Claimant failed, without good cause, to file a timely and valid appeal within the meaning of §7(c)(ii) of the Law.

FINDINGS OF FACT

The non-monetary determination dated November 24, 1980 was properly mailed to the Claimant's address of record and notified the Claimant that the last date for filing a valid and timely appeal was December 9, 1980. At the time that the determination arrived at the Claimant's home, she was away in Pennsylvania attending to her father, who was seriously ill. The Claimant had requested a postponement of the pre-determination hearing because she was in Pennsylvania, but her request was not granted and the determination was made without her testimony.

She returned home on December 15, 1980 and when she saw the notice she filed her appeal in person on December 17, 1980.

CONCLUSIONS OF LAW

The Board concludes that the Claimant had good cause to file an untimely appeal due to the serious nature of the domestic matter that detained her in Pennsylvania and her request to postpone the hearing, which was denied.

ISSUE 2. Whether the Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §6(a) of the Law.

FINDINGS OF FACT

The Claimant was employed by Western Auto Supply Company. On or about September 9, 1980, she was suddenly and unexpectedly called out of town to take care of her father, who was gravely ill. She contacted her Employer and obtained a leave of absence until October 6, 1980.

On October 6, 1980, she was still unable to leave her father in Pennsylvania. On or about October 29, 1980 she received a letter from the Employer telling her that if she did not return to work by October 29, 1980, the Employer would assume that the Claimant had quit. The Claimant, having just received the letter on October 29, 1980, phoned her Employer immediately. After discussing the situation with him and informing him that she could not give him a date of expected return, the Employer said that he would have no choice under the circumstances but to lay her off, She reluctantly agreed to this.

When the Claimant returned to Maryland on December 15, 1980, she contacted the Employer but she had been replaced.

CONCLUSIONS OF LAW

The Claimant was unable to return to her job because she had to take care of her father. Although she did not want to quit, clearly she intended not to return to work for an undefinable period of time and this constitutes a voluntary quit, without good cause, within the meaning of §6(a) of the Law. The Board notes that the Employer stated that he was laying her off. However, the Board finds that, by not returning to her job and not knowing when she could return to her job the Claimant had in effect quit.

The Board does conclude that the circumstances in this case are valid circumstances of a sufficiently compelling nature and that a lesser disqualification is warranted. The Claimant's credible testimony is that she was the only family member able to care for her father. Further, she supplied documentary evidence of her father's health problem from his physician.

DECISION

The Claimant failed to file a timely and valid appeal, but with good cause within the meaning of §7(c)(ii) of the Maryland Unemployment Insurance Law.

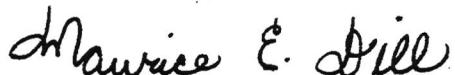
The Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §6(a) of the Maryland Unemployment Insurance Law. She is disqualified from, receiving benefits for the week beginning September 21, 1980 and the nine weeks immediately following.

The prior decision of Board of Appeals, No. 240-DR-81, is reversed and modified.

This denial of unemployment insurance benefits for a specified number of weeks will also result in ineligibility for Extended Benefits and Federal Supplemental Compensation, unless the

Claimant has been employed after the date of the disqualification.


Associate Member


Associate Member

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DATE OF HEARING: July 6, 1982.

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Hyman K. Cohen, Esquire

John Roberts - Legal Counsel, Room 606

UNEMPLOYMENT INSURANCE - EASTPOINT



DEPARTMENT OF HUMAN RESOURCES
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BOARD OF APPEALS
 JOHN J. KENT
 Chairman
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 Associate Members

— DECISION —

CLAIMANT: S. Louise Sertino
EMPLOYER: Western Auto Supply Company
ISSUE: Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law.

DATE: January 29, 1981
APPEAL NO.: 10748
S.S.NO.:
L.O.NO.: 40
APPELLANT: Claimant

LESLIE E. LANIER
 Appeals Counsel
 GARY SMITH
 Chief Hearings Officer

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 EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 511, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON February 13, 1981

—APPEARANCES—

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present

Not Represented

FINDINGS OF FACT

From a Claims Examiner's non-monetary determination dated November 24, 1980 and mailed to the claimant's address of record, the claimant was advised that the last date for filing a valid and timely appeal was December 9, 1980.

The claimant filed her appeal in person on December 17 and has indicted that the delay was brought about because she was out of town on a serious domestic matter and although her husband received the Claims Examiner's form, by the time she actually received it and returned home on December 15, that the time for appeal had expired.

COMMENTS

The time limits and requirements for filing a timely and valid appeal are mandatory; the Appeals Referee is without authority or jurisdiction to rule on the merits of a claim when filed as an untimely appeal.

DECISION

The claimant filed an untimely appeal.

The Claims Examiner's non-monetary determination within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law and the resultant disqualification beginning the week starting September 21, 1980 continuing until the claimant becomes reemployed, earns ten times her weekly benefit amount (\$1,200) and thereafter becomes unemployed through no fault of her own remains unaffected.



Arthur J. Novotny, Jr.
Appeals Referee

Date of hearing: January 21, 1981

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Copies mailed to:

Claimant

Employer

Unemployment Insurance - Eastpoint