

 **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 —

Michael Wysling  
Claimant:

B P S Guard Services, Inc.  
Employer: C/O R. E. Barrington, Inc.  
ATTN: Michael Mullen

1179-BH-92  
Decision No.:  
July 21, 1992  
Date:  
9120285  
Appeal No.:  
~  
S. S. No.:  
5  
L. O. No.:  
EMPLOYER  
Appellant:

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of Section 8-1001 of the Labor and Employment Article.

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— 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 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.

August 20, 1992

THE PERIOD FOR FILING AN APPEAL EXPIRES

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— APPEARANCES —

FOR THE CLAIMANT:  
Claimant not present

FOR THE EMPLOYER:  
Michael Mullen, R.E.  
Harrington Rep.;  
Ann Edwards, Pers. Mgr.;  
William Nabe, Sec. Mgr.  
Frederick Towne Mall;  
James Broadbent, Sec. Sgt.

hired for and worked at the Fredericktown Mall. He apparently injured himself on the job and was out of work from September 9 until September 24, 1991.

He was subsequently notified by his employer that the client, that is the Fredericktown Mall, did not want the claimant to return to work at that job site. Allegedly, the claimant had kicked in a door causing \$1200.00 worth of damage. The claimant denies that he engaged in this conduct, and the employer presented absolutely no proof that the claimant did, in fact, cause the damage to the door.

The claimant was offered another position, but in Baltimore, Maryland. The claimant resides in Frederick, Maryland. The claimant did not believe that economically it would be feasible for the claimant to drive round trip from Baltimore to Frederick for \$5.15 an hour, which is what he earned as a security guard.

#### CONCLUSIONS OF LAW

The Maryland Code, Labor and Employment Article, Title 8, Section 1001 provides that an individual is disqualified for benefits when his/her unemployment is due to leaving work voluntarily. This section of the Law has been interpreted by the Court of Appeals in the case of Allen v. CORE Target City Youth Program (275 Md. 69), and in that case the Court said: "As we see it, the phrase 'due to leaving work voluntarily' has a plain, definite and sensible meaning; it expresses a clear legislative intent that the claimant, by his or her own choice, intentionally, of his or her own free will, terminated the employment."

In this case, the claimant voluntarily exhibited the intent to leave work. He wanted to remain at the Fredericktown Mall. He could have, however, continue working for the employer, but in Baltimore. He, therefore, was not discharged. He was offered a transfer which he declined.

The question next presented was whether the claimant's resignation was with good cause and valid circumstances.

The Maryland Code, Labor and Employment Article, Title 8, Section 1011(a), (b) provides no disqualification from unemployment insurance benefits where a claimant leaves employment with good cause attributable to the actions of the employer or the conditions of employment. The facts established in the instant case will support a finding that the claimant's leaving the employment was for good cause within the meaning of Title 8, Section 1001 (a)(b).

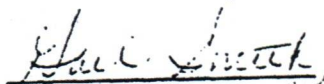
This claimant was faced with a substantial change in the conditions of his employment. He was hired for one location in Frederick. The employer offered a transfer to the Baltimore location. The employer presented absolutely no proof that the claimant engaged in any conduct which would have precluded the claimant from returning to the job site in Frederick. The claimant was justified in declining the transfer to the Baltimore area which would have meant at least one hour commute one way from his resident. As noted, he was hired for the Frederick location.

The determination of the Claims Examiner will be affirmed.

DECISION

The claimant left work voluntarily, but with good cause, within the meaning of Title 8, Section 1001 of the Maryland Code, Labor and Employment Article. No disqualification is imposed.

The determination of the Claims Examiner is affirmed.

  
Gail Smith  
Hearing Examiner

Date of Hearing: 12/2/91  
Specialist ID: 05402  
cd/CASSETTE IN FILE

COPIES MAILED ON 12/9/91 TO:

Claimant  
Employer  
Unemployment Insurance - Frederick (MABS)

 **Maryland**  
Department of Economic &  
Employment Development

*William Donald Schafer, Governor*  
*J. Randall Evans, Secretary*

*William R. Merriman, Chief Hearing Examiner*  
*Louis Wm. Steinwedel, Deputy Hearing Examiner*

*1100 North Eutaw Street*  
*Baltimore, Maryland 21201*

*Telephone: 333-5040*

**— DECISION —**

	Date:	Mailed 12/9/91
Claimant:	Michael Wysling	Appeal No.: 91210285
	S S. No.:	
Employer:	B P S Guard Services, Inc. c/o R. E. Barrington, Inc.	L. O. No.: 05
	Appellant:	EMPLOYER

Issue: Whether the claimant was discharged for misconduct connected with the work within the meaning of MD Code, Labor and Employment Article, Title 8, Section 1003.

**— NOTICE OF RIGHT TO PETITION FOR REVIEW —**

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

December 24, 1991

**— APPEARANCES —**

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER:

Represented by Ann  
Edwards, Personnel  
Manager; and Michael  
Mullen, R. E.  
Barrington, Inc.

**FINDINGS OF FACT**

The claimant worked seven months for the employer. His last day of work was October 8, 1991. He was a security guard. He was

### EVALUATION OF THE EVIDENCE

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 Economic and Employment Development's documents in the appeal file.

The witnesses for the employer who testified before the Board of Appeals were credible, and the Board was convinced that the claimant did personally cause the damage to the doors in question.

### FINDINGS OF FACT

The claimant was employed for approximately seven months as a security guard for BPS Guard Services, Inc. His last day of actual work was September 8, 1991.

On that date, the claimant, while on duty, attempted to open a steel door that was known for being somewhat balky. The claimant opened it by violently kicking it with his foot, causing \$1,200 worth of damage. The claimant was required as part of his job duties to report any incidents of vandalism or damage on the premises, whether caused by himself or by anyone else. The claimant did not report this on his shift, but he did mention it to another security officer as he was leaving.

As a result of kicking in the door, the claimant injured his foot and was disabled from September 9 through September 24, 1991. When he was ready to return, however, the claimant was informed that the employer's client, the Frederick Mall, did not want him back. The employer had no more work sites available in Frederick and offered him a transfer to a position paying \$5.50 an hour in Baltimore. The claimant refused this and submitted a letter of resignation on October 8, 1991.

### CONCLUSIONS OF LAW

A refusal of a transfer, even if the transfer amounts to a demotion, is considered a voluntary quit within the meaning of Section 8-1001 of the Labor and Employment Article. The circumstances surrounding the transfer, including the reasons for any demotions, can be taken into account in considering whether the voluntary quit was for "good cause" or "valid circumstances" within the meaning of that section of the law.

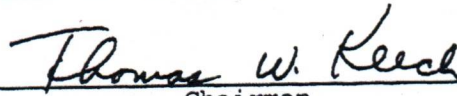
The claimant in this case argued that the transfer to a relatively remote location at a relatively low wage was unreasonable, and that his subsequent refusal to transfer amounted to good cause. The Board disagrees. The change in working conditions, however drastic, was caused entirely by the claimant's own detrimental conduct at work. Where a change in the working conditions is

caused by a claimant's own detrimental conduct at work, and where the claimant subsequently quits the employment on account of the changes in the working conditions, the claimant's resignation is held to be without either good cause or valid circumstances. In this case, the claimant caused himself to be banned from the Frederick Towne Mall, kicking in the door and destroying the mall's property. The employer was quite lenient in offering the claimant any type of transfer at all. His refusal of a transfer is without good cause or valid circumstance.

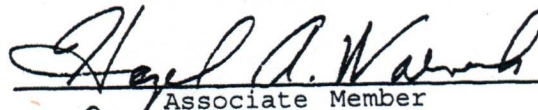
#### DECISION

The claimant voluntarily left his employment, without good cause or valid circumstances, within the meaning of Section 8-1001 of the Labor and Employment Article. He is disqualified from the receipt of benefits from the week beginning October 6, 1991 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1,390), and thereafter becomes unemployed through no fault of his own.

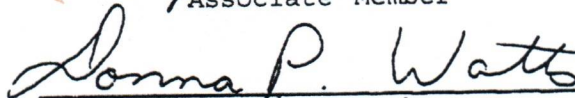
The decision of the Hearing Examiner is reversed.

  
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Chairman

  
\_\_\_\_\_

Associate Member

  
\_\_\_\_\_

Associate Member

K:W:W

kbm

Date of hearing: June 2, 1992

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - FREDERICK

BPS Guard Services, Inc.

c/o R. E. Barrington, Inc.