

 **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.:	688-BR-93
	Date:	April 16, 1993
Claimant:	Appeal No.:	9301573
	S. S. No.:	
Employer:	L.O. No.:	3
	Appellant:	CLAIMANT
Issue:	Whether the claimant left work voluntarily, without good cause, within the meaning of Section 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's testimony was the only evidence provided in this case. Based on the claimant's testimony, the Board makes the following findings of fact.

The Board adopts the first paragraph of the Hearing Examiner's findings of fact and makes the following additional findings. The claimant, when first hired, was promised a raise after 60 days' work, but the raise was not provided, despite his complaint. He was hired to work 50 to 60 hours per week but was required to work 67 to 102 hours per week.

The claimant was entitled to a specific (higher) pay rate on a certain state contract on which he was working. When he was not paid the higher rate, he complained to his supervisor. His supervisor told him that the higher rate would be reflected in his next paycheck. It was not in his next paycheck. The claimant complained again, and he complained again to his supervisor.

At the time, the claimant did have a prospect of another job in a completely different field.

CONCLUSIONS OF LAW

The claimant had good cause for leaving the employment. The failure to honor a promise of a specific raise at a specific time is in itself good cause. D'Adamo v. Action Earth Satellite (457-BR-86). The excessive number of hours also amounts to good cause. The failure to pay the correct (higher) pay rate for the state contract work was also good cause in itself.

The Hearing Examiner discounted the claimant's complaints about the state contract pay rate entirely because the claimant only complained to his supervisor twice before he quit. But the Board concludes that, once a claimant establishes that he is not being paid the proper amount, there is no requirement that he make any more than a reasonable effort to obtain the money due him. The claimant's two complaints, over a weeks-long period of time, to his supervisor, who admitted that the higher pay was due, is sufficient. Just as employees have duties to their supervisors, supervisors have duties to their employees. One of these duties is to see that their valid complaints are addressed. An employee is entitled to rely on his supervisor making a reasonable and timely response to a valid complaint.

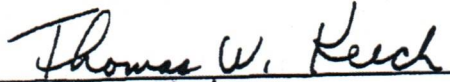
It appears that the claimant attempted to reach the owner with this complaint both before and after he quit. The Board believes that this would be the more accurate interpretation of the testimony, but also refrained from making a specific finding of fact on this issue, because it is not necessary to do so to reach a decision.

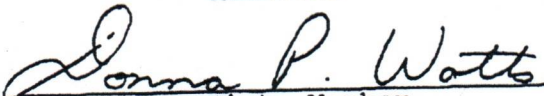
An employee is not required to badger everyone up and down the chain of command before he concludes that the employer is not meeting its obligations to him.

DECISION

The claimant voluntarily quit, but for good cause, within the meaning of Section 8-1001 of the Labor and Employment Article. No disqualification is imposed based upon the claimant's separation from employment with Sheila Sue-Mattingly, DIP.

The decision of the Hearing Examiner is reversed.


Chairman


Associate Member

K:D

kmb

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - CUMBERLAND

 **Maryland**
Department of Economic &
Employment Development

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— D E C I S I O N —

Date: **Mailed 2/24/93**

Claimant: **Dale A. Clark** Appeal No.: **9301573**

S. S. No.: —

Employer: **Sheila Sue Mattingly, DIP** L.O.No.: **03**

Appellant: **Claimant**

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

— 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 BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL

March 11, 1993

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON
NOTE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK

— A P P E A R A N C E S —

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER:

NOT REPRESENTED

FINDINGS OF FACT

The claimant worked for the employer from October, 1991 through July 7, 1992. He was employed as a shop foreman/equipment foreman and earned \$450.00 per week full time.

The claimant voluntarily left his employment on or about July 7, 1992 because he felt he was working too many hours, was under-paid, and was not happy with the position.

The claimant was working with the Paving Company doing a State job. The claimant was not receiving the State hourly rate as per State contracts. The claimant raised this matter with his supervisor, Dave Porter, who said he would take care of it. The claimant was told that he would receive the State contract rate in his next paycheck. The claimant did not receive State hourly rate in his next paycheck, and was told to take the matter up with Tom Mattingly. The claimant and Mr. Mattingly agreed that their meeting was not for a couple weeks.

Prior to the claimant being told to meet with Mr. Mattingly, he submitted his resignation. The claimant felt that he was working too many hours above what was expected of him. The claimant then submitted his resignation and then wished to meet with one of the co-owners. The meeting with the co-owner and the claimant never occurred.

The claimant was guaranteed work through the winter months. The claimant was a shop foreman and would take care of various equipment. The claimant did have another job offer outstanding with Lumber N' Things in Jessuptown, Maryland. The offer was to be a driver at 95-cents per mile. This Hearing Examiner does not find as fact that this was better employment.

CONCLUSIONS OF LAW

The Maryland Code, Labor and Employment Article, Title 8, Section 1001 provides that an individual shall be disqualified for benefits where his unemployment is due to leaving work voluntarily, without good cause arising from or connected with the conditions of employment or actions of the employer. The preponderance of the credible evidence in the record will support a conclusion that the claimant voluntarily separated from employment, without good cause, within the meaning of Title 8, Section 10010

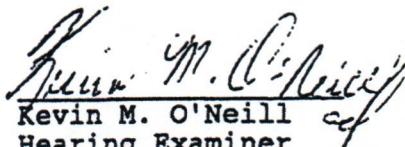
In the instant case, the claimant did not meet with the co-owner of the business to discuss his hourly rate change on the State contract prior to submitting his resignation. After the claimant had submitted his resignation, is not the time to discuss a problem with a co-owner. The claimant has failed to show good cause attributable to the employer for his resignation. The claimant did work numerous hours, but the nature of the paving business is to work intense hours during the summer season. This

Hearing Examiner also finds that this claimant did not have valid circumstances for his separation from employment.

DECISION

The claimant left work voluntarily, without good cause, within the meaning of Title 8, Section 1001 of the Maryland Code, Labor and Employment Article. Benefits are denied for the week beginning July 5, 1992, and thereafter until he becomes re-employed, earns at least fifteen times his weekly benefit amount in covered wages, and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is affirmed.


Kevin M. O'Neill
Hearing Examiner

Date of Hearing: 2/18/93
Specialist ID: 03264
SEQ 01
cd/CASSETTE IN FILE

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Claimant
Employer
Unemployment Insurance - Cumberland (MABS)