



DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032
- DECISION -

BOARD OF APPEALS
THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERNE LANIER
Appeals Counsel

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN
Secretary

DECISION NO.: 216-BR-83

DATE: February 24, 1983

CLAIMANT: Freeman Manuel

APPEAL NO.: 15054

S. S. NO.:

EMPLOYER: Osika-Cooper, Inc.
T/A Berlin Tastee Freez

L. O. NO.: 27

APPELLANT: CLAIMANT

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

March 26, 1983

- 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 Appeals Referee.

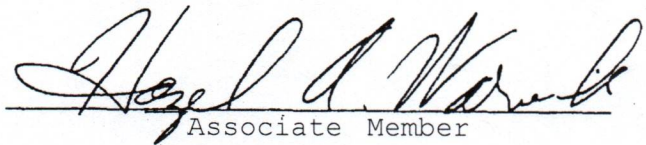
The Claimant quit his employment because his Employer made personal, derogatory comments to the Claimant. of a racially offensive nature, concerning the Claimant and his girlfriend.

The Board concludes that such actions on the part of the Employer constitute good cause, within the meaning of §6(a) of the Law.

DECISION

The Claimant left his employment voluntarily, but for good cause, within the meaning of §6(a) of the Maryland Unemployment Insurance Law. No disqualification is imposed based on his separation from his employment with Osika-Cooper, Inc. The Claimant may contact the local office about the other eligibility requirements of the Law.

The decision of the Appeals Referee is reversed.


Associate Member


Associate Member

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zs
(JMW)

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - SNOW HILL



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
 THOMAS W. KEECH
 Chairman
 MAURICE E. DILL
 HAZEL A. WARNICK
 Associate Members
 SEVERN E. LANIER
 Appeals Counsel
 MARK R. WOLF
 Administrative
 Hearings Examiner

-DECISION-

CLAIMANT: Freeman Manuel
 DATE: 1/4/83
 APPEAL NO.: 15054-EP
 S. S. NO.:
 EMPLOYER: Osika-Cooper, Inc.
 L. O. NO.: 27
 APPELLANT: Employer

ISSUE: Whether the claimant is subject to a disqualification of benefits 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 Jan. 19, 1983

- APPEARANCES -

FOR THE CLAIMANT:
 Claimant-Present

FOR THE EMPLOYER:
 Stella A. Osika,
 President
 Paul Osika,
 Manager

FINDINGS OF FACT

The claimant already was working for the employer when they took over this business. He worked at the Berlin Tastee Freez, before they started their ownership of the business on December 28, 1979. The claimant continued to work as an Assistant Manager until September 6, 1982, earning \$217 gross weekly salary.

The president of the employer made certain remarks to the claimant about his girl friend. The claimant is black and his

girl friend is white. While seated at the place of employment in the restaurant area with the claimant, the president of the employer felt that the claimant's girl friend was "white trash" and was "a cheap character". The claimant became upset about these remarks. He believed that the employer's attitude toward him was changing. Initially, he got along very well with the president of employer when she took over the business in 1979, and even was lent her personal motor vehicle for the claimant to use to go back and forth to work. After the first year of employment with this employer, the claimant believed that there were racial overtones to the employer's behavior towards him. He then decided several months before his last day of work that he was going to leave because of what he believed to be a racial attitude towards him by the owners of the business. On the last day of work when the owner of the business told him about her feelings concerning his girlfriend, he decided to leave work in the middle of the day. He then left and did not return until about one week later when he picked up his check. He sent his aunt in to bring back his keys and uniforms.

CONCLUSIONS OF LAW

The evidence reveals that the claimant, in fact, decided to voluntarily leave the employment for personal reasons not attributable to the employer or employment and, consequently, failing to constitute good cause. The claimant's election to leave work while motivated by certain remarks of the employer does not constitute good cause for leaving otherwise suitable employment. The evidence reveals that the claimant left work because of actions which are not attributable to the employer or employment and do not arise from and are not connected with the conditions of the employment. They, therefore, fail to constitute good cause for leaving otherwise suitable work.

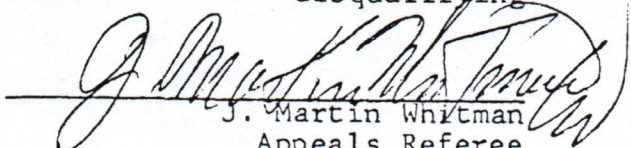
The evidence fails to sustain any finding of seriousness of valid circumstances which might be considered in imposing less than the maximum disqualification and accordingly, the Appeals Referee must impose the maximum disqualification under this Section of the Law.

DECISION

The unemployment of the claimant was caused by leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law.

Benefits are denied for the week beginning September 5, 1982 and until the claimant becomes re-employed, and earns ten times his weekly benefit amount (\$1,180) and thereafter, becomes unemployed through no fault of his own.

The determination of the Claims Examiner in not disqualifying the claimant is hereby reversed.


J. Martin Whitman
Appeals Referee

Date of Hearing: 12/21/82

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(6656)-Bacon

Copies mailed to:

Claimant

Employer

Unemployment Insurance - Snow Hill