



DEPARTMENT OF HUMAN RESOURCES

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

BOARD OF APPEALS
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SEVERN E. LANIER
Appeals Counsel

STATE OF MARYLAND
HARRY HUGHES
Governor

RUTH MASSINGA
Secretary

—DECISION—

	DECISION NO.:	1028-SE-83
	DATE:	August 17, 1983
CLAIMANT: Bruce Kanter	APPEAL NO.:	15700
	S.S.NO.:	
EMPLOYER: Chillum Corporation	LO.NO.:	43
ATTN: William G. Porterfield, President/Owner	APPELLANT:	REMAND FROM COURT REOPENED CASE EMPLOYER APPEAL
ISSUE	Whether the Claimant was discharged for misconduct connected with the work within the meaning of §6(c) 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

September 16, 1983

— APPEARANCE —

FOR THE CLAIMANT:

Bruce Kanter - Claimant
Theodore Metrenas - Witness
John A. Walsh, Jr. - Witness

FOR THE EMPLOYER:

William G.
Porterfield-
President/Owner

STATEMENT OF THE CASE

The Board of Appeals previously entered a decision in this case reversing a decision of the Appeals Referee and finding that the Claimant was discharged for misconduct connected with his work within the meaning of §6(c) of the Maryland Unemployment Insurance Law. The Claimant took a timely appeal. One of the bases of

CONCLUSIONS OF LAW

The Claimant's repeated shortages resulting from the careless manner in which he conducted the Employer's business constitutes misconduct within the meaning of Section 6(c) of the Law.

The Board of Appeals does not find that there is sufficient evidence of deliberateness or willfulness to justify a finding of gross misconduct under §6(b) of the Law.

DECISION

The Claimant was discharged for misconduct connected with the work within the meaning of §6(c) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits for the week beginning March 8, 1981 and the nine weeks immediately following.

The prior decision of the Board of Appeals, Decision Number 326-SE-82, is affirmed.

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.

Thomas W. Keech

Chairman

Harold A. Wornicki

Associate Member

K:W
zs

DATE OF HEARING: May 16, 1983.

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WHEATON



STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

DEPARTMENT OF HUMAN RESOURCES
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BOARD OF APPEALS

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 Appeals Counsel

GARY SMITH
 Chief Hearings Officer

- DECISION -

CLAIMANT: Bruce Kantner

DATE: May 25, 1981

APPEAL NO.: 15700

S.S.NO.:

EMPLOYER: Chillum Corporation

LO.NO.: 43

APPELLANT: Claimant

ISSUE:

Whether the claimant was discharged for misconduct connected with the work within the meaning of Section 6(c) 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

June 9, 1981

-APPEARANCES-

FOR THE CLAIMANT:

Bruce Kantner, Present

FOR THE EMPLOYER:

William G.
 Porterfield
 Ralph ~~Green~~

FINDINGS OF FACT

The claimant worked for the company from May of 1979 until March 10, 1981. He was employed as a clerk earning \$3.50 per hour working from 6 a.m. to 6:30 p.m.. The claimant was discharged

the Claimant's appeal was that he had been prevented from presenting evidence before the Board of Appeals by reason of a failure to grant him a postponement when he was out of town. The case was remanded by the Circuit Court for Prince George's County in order to afford the Claimant an opportunity to present his evidence.

EVIDENCE CONSIDERED

The Board of Appeals has considered all of the evidence presented, including the testimony offered at all of the hearings in the case. The Board has also considered all of the documentary evidence introduced in this case, as well as the Employment Security Administration's documents in the appeal file.

FINDINGS OF FACT

The Claimant was employed as a clerk by Chillum Corporation in May of 1977. He was earning \$3.50 per hour working a three day week from 6:00 a.m. to 6:30 p.m. at the time he was discharged by the Employer on March 10, 1981.

It was part of the Claimant's duties to receive cash. He was assigned a cash drawer for which he was responsible. The Claimant did not progress in his employment and was never offered a manager's job which his length of service could have merited. The Claimant did not handle his cash drawer properly because he was careless with the money and he also kept his work area in a sloppy manner .

The Employer has warned the Claimant orally concerning the unsatisfactory manner in which he handled his cash drawer and the manner in which he kept his work area. In an attempt to help the Claimant, the owner personally instructed him how his cash drawer should be kept in order to reduce the chance of shortages.

The Employer had a policy that any shortages over \$2.00 would be deducted from the employee's pay. The Claimant signed a notification that he was aware of this policy. As time progressed, the Claimant became dissatisfied with the money being deducted from his salary and even called the Labor Department concerning this. He took no action other than a phone call.

The Claimant's work performance deteriorated further in the last months of his employment. In that time, he had \$358.23 in shortages due to the carelessness in the handling of cash. On March 9, 1981, while the Employer was in the process of preparing a written warning concerning shortages and his attitude towards the job, the Claimant was again short \$49.20 in his cash. He was then terminated by the Employer.

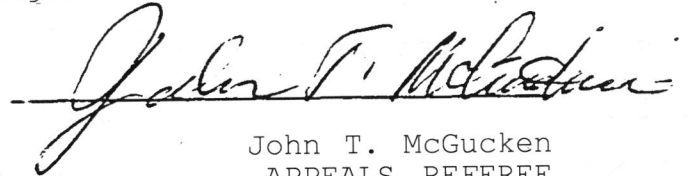
March 10, 1980 because he was unable to control his shortages. This was a condition that had existed for a long period of time according to the employer but had gotten more serious in recent months. The employer classified the claimant's ability as marginal during the entire time that he had worked for him. Shortly prior to the claimant's discharge he had advised the employer that he had been paying some of the employees less than the minimum wage and felt that the employer had been taking money illegally from the claimant for the shortages resulting in less than the minimum wage being paid to the employee. The claimant suggested that he would go to the wage board and the employer had suggested that if the claimant did he could look for another job.

COMMENTS

Since the employer acknowledged that the claimant's ability was marginal, that he was discharged for excessive shortages but failed to show any intentional acts of insubordination on the part of the claimant, the determination of the Claims Examiner that the claimant was discharged for misconduct connected with his work is not supported by the evidence in the case and will be reversed. The timing of the claimant's discharge shortly thereafter his complaint to the employer that the wages might be below the minimum wage strongly suggest that the claimant was discharged for a non-disqualifying reason within the meaning of Section 6(c) of the Law.

DECISION

The claimant was discharged for a non-disqualifying reason within the meaning of Section 6(c) of the Law. Benefits are allowed provided the claimant is otherwise eligible.



John T. McGucken
APPEALS REFEREE

Date of hearing: May 15, 1981

Cassette: 7923

hf (P. Bruning)

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Claimant
Employer
Unemployment Insurance-Wheaton