



# Maryland

## Department of Economic & Employment Development

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

*Board of Appeals  
1100 North Eutaw Street  
Baltimore, Maryland 21201  
Telephone: (301) 333-5032*

*Board of Appeals  
Thomas W. Keech, Chairman  
Hazel A. Warnick, Associate Member  
Donna P. Watts, Associate Member*

**— DECISION —**

	Decision No.:	1108-BR-89	
	Date:	Dec. 18, 1989	
Claimant:	Cornelia Floyd	Appeal No.:	8911296
		S. S. No.:	
Employer:	Parkway, Inc. c/o ADP/UCM Dept. ATTN: Gabrielle Allen	L.O. No.:	40
		Appellant:	EMPLOYER
Issue:	Whether the claimant was discharged for gross misconduct or misconduct, connected with her work, within the meaning of Section 6(b) or 6(c) of the law.		

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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 MAYBE 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.

January 17, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

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**— 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 Board finds as a fact that the claimant was the only person in charge of handling the money received from customers on her shift on the last night she worked. There was a shortage of \$232 during that shift, and this was not attributable to mechanical or electronic error. The claimant neither admitted nor denied to the employer that she had misappropriated the money, and she did sign a paper promising to pay the employer the \$232.

Where the employer has provided sufficient evidence, as it did here, that funds under the sole control of the claimant have disappeared, the burden shifts to the claimant to explain what became of the money. The claimant failed to appear and present any evidence, and the Board finds as a fact that the claimant either misappropriated the money or was grossly negligent with the employer's money.

Misappropriation of money, of course, would clearly constitute gross misconduct under Section 6(b) of the law. In this case, the claimant's gross negligence would also amount to gross misconduct. The claimant was in complete control of the money during her shift. There were no mitigating circumstances such as accidents or simple miscalculations presented which might have lessened the severity of the negligence. A large amount of money under the claimant's control disappeared. The negligence in this case amounts to a deliberate violation of standards the employer has a right to expect, showing a gross indifference to the employer's interest. This amounts to gross misconduct within the meaning of Section 6(b) of the law.

#### DECISION

The claimant was discharged for gross misconduct, connected with her work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning July 23, 1989 and until she becomes re-employed, earns at least ten times her weekly benefit amount, and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is reversed.

Thomas W. Keech  
Chairman  
Harold A. Warnick  
Associate Member

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT

 **Maryland**  
Department of Economic &  
Employment Development

*William Donald Schaefer, 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*

**— D E C I S I O N —**

Mailed: October 26, 1989

Date:

Claimant: Cornelia I. Floyd

Appeal No.:

8911296

S. S. No.:

Employer: Parkway, Inc.  
ADP/UCM Baltimore

L.O. No.:

40

Appellant:

Employer

Issue: Whether the claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) of the Law.

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**— 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

November 13, 1989

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

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**— A P P E A R A N C E S —**

FOR THE CLAIMANT:

Not Present

FOR THE EMPLOYER:

Donald Waldera,  
Manager  
Gabrieille Allen,  
Rep. ADP

**FINDINGS OF FACT**

The claimant was employed on August 8, 1987 as a full-time cashier in a self-service gas station. On July 29, 1989, the claimant had the 10 p.m. to 6 a.m. shift.

At the completion of the shift she completed, as part of her regularly duty a recapitulation sheet, showing the sales of gasoline and other item and any monetary difference between the amount recorded by the machines, gasoline pumps and the actual receipts. There was a shortage that day of \$232.48. In the two years the claimant had previous been employed, she had been short several times. But the amounts ranging up to \$38 were in the opinion of the employer within the acceptable margin of error since gasoline is sold for different prices according to whether the payment is in cash or by credit card.

In the shifts just prior to the claimants' there had been malfunctioning of the recording equipment and the attendants during those hours had complained to the employer. The employer upon receiving the claimant report confronted her and asked what could account for such a large differential. The claimant attributed the shortage to the malfunctioning of the automatic recording equipment. The claimant neither admitted nor denied taking the missing money. But she did authorize the employer to deduct it from her wages. The employer dissatisfied with her explanation discharged her on August 2, 1989.

#### CONCLUSIONS OF LAW

The term "misconduct," as used in the Statute means a transgression of some established rule or policy of the employer, the commission of a forbidden act, a dereliction from duty, or a course of wrongful conduct committed by an employee within the scope of his employment relationship, during hours of employment or on the employer's premises. (See Rogers v. Radio Shack 271 Md. 126, 314 A.2d 113).

The shortage of \$232.48, although large in comparison with previous shortages is not in it self sufficient to show willful or wanton disregard of an obligation owed to the employer. In the absence of the showing of such disregard, or a series of repeated violation of company rules, the employer has not met his burden of showing gross misconduct within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law.

#### DECISION

The claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law.

She is disqualified from receiving benefits from the week beginning July 23, 1989 and for the nine week immediately following.

The determination of the Claims Examiner is affirmed.

  
Henry M. Rutledge  
Hearing Examiner

Date of Hearing: October 24, 1989  
bch/Specialist ID: 40315  
Cassette No: 8801  
Copies mailed on October 26, 1989 to:

Claimant  
Employer  
Unemployment Insurance - Eastpoint (MABS)