



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032

-DECISION-

STATE OF MARYLAND
HARRY HUGHES
Governor

BOARD OF APPEALS
THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

DECISION NO.: 111-BR-84

DATE: January 24, 1984

CLAIMANT: Thomas J. Skelton

APPEAL NO.: 11450

S.S. NO:

EMPLOYER: Maryland House of Correction
c/o State of Maryland Personnel
ATTN: Rebecca Warren, Admin. Officer

L.O. NO.: 40

CLAIMANT

ISSUE: Whether the Claimant was discharged for misconduct. connected with the work, within the meaning of § 6(c) of the Law; and whether the Claimant was discharged for gross misconduct, connected with the work, within the meaning of § 6(b) 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

February 23, 1984

-APPEARANCE-

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

After having reviewed the record in this case, the Board of Appeals reverses the decision of the Appeals Referee.

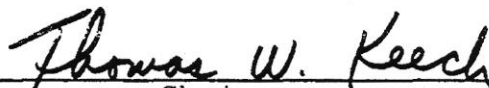
The Board finds that the Claimant's action was a deliberate and willful disregard of the standards of behavior which the employer has a right to expect, showing a gross disregard for the employer's interest. In the case of Edwindoria Johnson v. Baltimore City Police Department, 952-BH-83, the Board stated that the duties owed to an employer necessarily varied, depending on the type of work that is being performed. In that case, the Board concluded that a police officer has a continuing duty to the employer to refrain from committing criminal acts which may show moral turpitude or corruption and held that the commission of such an act, even while off duty, was a deliberate and willful disregard of standards of behavior which the employer has a right to expect, showing gross disregard for the employer's interest.

Although a correctional officer may not have as compelling a duty to his employer as a police officer to refrain from criminal acts, the particular offense here was clearly related to the duties of a correctional officer.

DECISION

The Claimant was discharged for gross misconduct, connected with the work, within the meaning of § 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits for the week beginning July 17, 1983, and until he becomes re-employed, earns ten times his weekly benefit amount (\$1,600) and thereafter becomes unemployed through no fault of his own.

The decision of the Appeals Referee is reversed.



Chairman



Associate Member

K:W
dp

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT



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

STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

-DECISION-

CLAIMANT: Thomas J. Skelton
 DATE: Nov. 3, 1983
 APPEAL NO.: 11450
 S.S. NO.:
 EMPLOYER: Maryland House of Correction
 Attn: Ms. Rebecca Warren
 c/o Dept. of Personnel
 L. O. NO.: 40
 APPELLANT: Claimant

ISSUE:
 Whether the claimant was discharged for gross misconduct connected with the work 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 November 18, 1983

-APPEARANCES-

FOR THE CLAIMANT: Thomas J. Skelton, Present
 Russell J. White, Esquire
 Lynn Skelton, Claimant's Wife
 FOR THE EMPLOYER: Not Represented

FINDINGS OF FACT

The claimant began employment October 13, 1976 as a Correctional Officer II. The claimant's current salary was \$19,200 yearly. The claimant's last day of employment was July 20, 1983

On July 20, 1983, the claimant was suspended from his employment, pending discharge for possession' of narcotics and narcotics paraphernalia. There was a Court Hearing held August 25, 1983 where the claimant was given Article 27, Section 292 under Maryland's Annotated Code, placing the claimant in a probationary status for the charges mentioned above. The suspension by the claimant is still-in effect at this time. There were no infractions against the claimant since his employment as a Correctional Officer II beginning October 13, 1976.

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 relationships during hours of employment, or on the employer's premises.

In the instant case, misconduct is shown because the claimant was fined and paid Court costs for charge #2 for possession of a controlled, dangerous substance.

DECISION

The claimant was discharged for misconduct, connected with the work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits for the week beginning JULY 17, 1983 and the four weeks immediately following.

The determination of the Claims Examiner is reversed.

This denial of unemployment insurance benefits for a specified number of weeks will also result in ineligibility for Extended Benefits and Federal Supplemental Insurance benefits (FSC), unless the claimant has been employed after the date of the disqualification.

Willie E. Walker

Willie E. Walker
APPEALS REFEREE

Date of hearing: October 14, 1983

Cassette: 7544

hf (Harrison)

COPIES MAILED TO:

Claimant
Employer
Unemployment Insurance-Eastpoint

Russell J. White, Esquire
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Towson, Maryland 20204