



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.: 1111-BH-89

Date: Dec. 20, 1989

Claimant: Patricia McNair

Appeal No.: 8908072

S. S. No.:

Employer: Housing Authority of Balto.
c/o City of Baltimore
ATTN: Charlie Spinner

L. O. No.: 1

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.

—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 19, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

Claimant not present

FOR THE EMPLOYER:

Felecia Lewis,
Housing Manager
Shirley Norris,
Personnel Tech. I

EVALUATION OF EVIDENCE

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

The Board has not considered as evidence the fact that the claimant was placed on probation before judgment as a result of the criminal charges stemming from this case. The Board is prohibited by the Maryland precedent cases from considering as evidence in this civil matter the fact that the claimant was placed on probation before judgment in the criminal matter. The Board has also not considered those charges of additional misconduct which did not surface until after the termination of the claimant. Even without considering these items, however, the Board concludes, based upon the rest of the testimony and evidence, that the claimant was defrauding the tenants in the public housing projects in which she worked.

FINDINGS OF FACT

The claimant was employed from April 6, 1987 through February 28, 1989 for the Housing Authority of Baltimore City. She was a management assistant, being paid \$19,122 per year. Although her last day of work was February 28, her official termination did not take place until March 23, 1989.

On more than one occasion, the claimant received rent money from the tenants in the housing project at which she worked, but neither turned the money in to management nor credited the tenants as having paid. She issued phony receipts and failed to take the money to the cashier or deposit it in any way in the account of the management of the housing project. As a result, some of the residents were officially listed as not having paid their rent and were scheduled for eviction.

There was no policy or practice of issuing the type of receipt which the claimant issued. The claimant kept the money under her own control, at least until she was threatened with criminal proceedings.

CONCLUSIONS OF LAW

It hardly needs to be stated that taking money paid by poor persons for their rent and keeping it for one's own use is gross misconduct. It is clearly a deliberate violation of

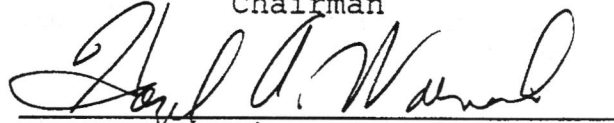
standards the employer has a right to expect, and it clearly shows a gross indifference to the employer's interest, not to mention the interest of the impoverished clients with whom the claimant was supposed to be working. All the requirements for a finding of gross misconduct under Section 6(b) of the law are clearly met here.

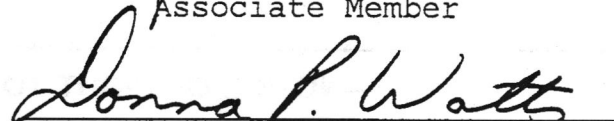
DECISION

The claimant was discharged for gross misconduct, connected with the work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. She is disqualified from the receipt of benefits from the week beginning March 19, 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.


Chairman


Associate Member


Associate Member

K:w:w

kbm

Date of Hearing: November 7, 1989

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer
Governor
J. Randall Evans
Secretary

1100 North Eutaw Street
Baltimore, Maryland
21201

(301) 333-5040

—DECISION—

Claimant:	Patricia N. McNair	Date:	Mailed: 7/25/89
		Appeal No.:	8908072
		S S. No.:	
Employer:	Housing Authority of Baltimore City	LO. No.:	001
		Appellant:	Employer
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 TO PETITION FOR REVIEW—

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON August 9, 1989

—APPEARANCES—

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Charles Spinner,
Unemployment
Insurance
Administrator, Civil
Service Commission
of Baltimore City
Felecia Lewis,
Housing Manager

FINDINGS OF FACT

The claimant was employed as a Management Assistant by the Housing Authority of Baltimore City, from April 6, 1987 and at the time of separation was being paid \$19,122 gross per year for full-time employment. On or about March 8, 1989, she was placed

on unpaid leave pending investigation and this status was perfected to a termination on March 23, 1989. The allegations concerned not following proper procedures in accepting rent payment from residents in City housing. The claimant, who denies all allegations of wrongdoings, knowingly did not follow the exact procedures but explains she did follow orders of her manager.

CONCLUSIONS OF LAW

It is held that the claimant was discharged for misconduct connected with her work, within the meaning and intend of Section 6(c) of the Maryland Unemployment Insurance Law, in that she did not follow the exact provisions required in the performance of her job duties. She will be disqualified under this provision of the Statute. The evidence presented is insufficient to disqualify the claimant under provisions 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. Benefits are denied for the week beginning March 12, 1989 and nine weeks immediately thereafter.

The determination of the Claims Examiner was warranted and will be affirmed.

P. J. Hackett -
Hearing Examiner

Date of Hearing: July 19, 1989
lr/Specialist ID: 01036/6441B-6442A
Copies mailed on July 25, 1989 to:

Claimant
Employer
Unemployment Insurance - Baltimore (MABS)