

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033



William Donald Schaefer, Governor
J. Randall Evans, Secretary

BOARD OF APPEALS

Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

Decision No.:	1158 -BH-88
Date:	Dec. 12, 1988
Claimant: Robert Jackson	Appeal No.: 8807917
	S. S. No.:
Employer: Dankmeyer, Inc. ATTN: Charles Dankmeyer, Jr. President	L. O. No.: 1
	Appellant: EMPLOYER

Issue: Whether the claimant was discharged for gross misconduct or misconduct, connected with his 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 11, 1989

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

Robert Jackson, Claimant
Jill Noel, Legal Aid Bureau

FOR THE EMPLOYER:

Leonard Pazulski,
Attorney;
Charles Dankmeyer,
Jr., President

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.

FINDINGS OF FACT

The claimant was employed by Dankmeyer, Inc. as a technician until he was discharged on or about June 14, 1988. He was discharged as a result of a series of incidents that resulted from his increasingly poor work performance, lack of cooperation and insubordination on the job.

When the claimant was first hired in November of 1985, the employer was satisfied with his work performance. However, in the spring of 1987, the claimant's work performance and attitude on the job began to deteriorate. He became increasingly argumentative both towards his co-workers and supervisors, and his work product deteriorated as well. He was spoken to by his supervisors about these problems, but he did not improve.

Specifically, in October of 1987, the claimant walked off the job without telling anyone that he was leaving. In April of 1988, the claimant got into an argument with another worker when he could not immediately assist the claimant in fitting his prosthesis. The claimant offered to "see" the fellow worker "out in the parking lot" to resolve the problem, a direct threat to the worker. The claimant later apologized for this incident after being warned about this kind of behavior.

In May of 1988, the claimant was warned again by his employer after he persistently mocked and made fun of a co-worker, an older woman who had worked for the company for many years. The claimant would not stop mimicking her even though he was warned that she was going to notice and that he would hurt her feelings. The co-worker eventually became aware that the claimant was making fun of her and became extremely upset. She had to be calmed down, and the claimant was reprimanded and told to apologize. He said he would apologize but never did so.

The claimant had to be warned about referring to one of his female supervisors as "babe" and was counseled verbally about aggravating other employees.

The final incident that culminated in his termination occurred in June, 1988 and involved the claimant's failure to properly assist a new employee from Ethiopia. Instead of helping, the claimant harassed the worker. The claimant would constantly ask him why he was there, remind him that this was America and that the claimant did not want this person working there. The claimant's taunting resulted in the employee telling his supervisor that he was leaving because he could no longer stand working with the claimant.

As a result of all these incidents, the employer made the decision to discharge the claimant.

CONCLUSIONS OF LAW

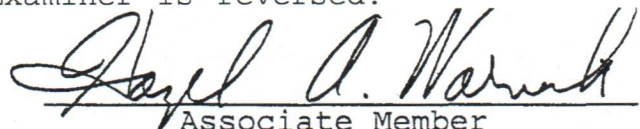
The Board concludes that the claimant's persistent insubordination, harassment of fellow employees and failure to do his job properly constitute a series of repeated violations of employment rules, proving that he regularly and wantonly disregarded his obligations, one of the definitions of gross misconduct connected with his work, within the meaning of Section 6(b) of the law.

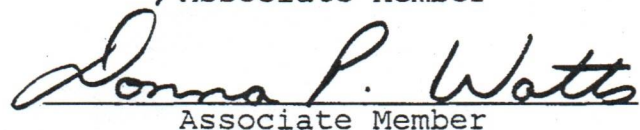
Beginning in 1987, the claimant embarked on a course of conduct that was intolerable both to his employer and to his fellow workers and which continued despite repeated counseling from his employer. His discharge, therefore, was clearly gross misconduct within the meaning of Section 6(b) of the law.

DECISION

The claimant was discharged for gross misconduct, connected with his work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning June 12, 1988 and until he becomes reemployed, earns at least ten times his weekly benefit amount, and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.


Associate Member


Associate Member

Date of Hearing: November 15, 1988

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Jill Noel, Legal Assistant
Legal Aid Bureau, Inc.

Leonard Pazulski, Esq.
Weinburg & Green

UNEMPLOYMENT INSURANCE - BALTIMORE

STATE OF MARYLAND
APPEALS DIVISION
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
(301) 383-5040

STATE OF MARYLAND
William Donald Schafer
Governor

— DECISION —

Claimant: Robert A. Jackson

Employer: Dankmeyer, Inc.

Mailed: 8/17/88

Date:

Appeal No: 8807917

S.S. No.:

L.O. No.: 1

Appellant: Claimant

Issue: Whether the claimant was discharged for gross misconduct connected with the work, within the meaning of Section 6(b) 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 WITH THE APPEALS DIVISION, ROOM 519, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL. THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON 9/1/88. NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

— APPEARANCES —

FOR THE CLAIMANT:

Claimant-Present
Joe Noel, Legal Assistant
Elizabeth Fish, Attorney
Legal Aid Bureau, Inc.

FOR THE EMPLOYER:

Not Represented

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits effective June 12, 1988.

The claimant was employed by Dankmeyer, Inc. for approximately thirty-one months, his last job classification as a Technician at an hourly wage rate of \$7.50. He last worked for this employer on or about June 14, 1988.

The claimant was terminated from his employment due to a bad attitude perceived by the president of the corporation.

The claimant worked in an area alone and on occasions would provide help and assistance to other co-workers in the same job classification.

On the claimant's last day of work, he was providing assistance and instructions to a new employee out of the work area. This new employee walked away from the claimant while the claimant was attempting to help him. The claimant expressed dissatisfaction to other co-workers, for every time the claimant assisted or tried to help this individual the other individual would walk away.

The claimant was never warned of a bad attitude or a problem about getting along with other individuals other than the fact that the employer noticed that the claimant liked working alone.

CONCLUSIONS OF LAW

As there is no competent evidence that the claimant was terminated for any acts demonstrating misconduct or gross misconduct in connection with his work, the determination of the Claims Examiner shall be reversed.

In the instant case, the claimant describes what occurred on his last day of work which amounted to his termination. There are no acts that could be considered misconduct or gross misconduct in connection with his work. The determination of the Claims Examiner shall be reversed.

DECISION

The claimant was terminated from his employment, but not for any acts demonstrating misconduct or gross misconduct in connection with his work, within the meaning of Section 6 of the Maryland Unemployment Insurance Law. The denial of benefits for the week beginning June 12, 1988 until such time that the claimant again becomes re-employed, earns at least ten times his weekly benefit amount is rescinded. ,

The determination of the Claims Examiner is reversed.

Selig A. Wolfe

Selig A. Wolfe
Hearing Examiner

Date of hearing: 8/9/88

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(5952)-Groves

Copies mailed on 8/17/88 to:

Claimant

Employer

Unemployment Insurance - Baltimore - MABS