

 **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:	140-BR-90
Date:	Feb. 12, 1990
Claimant: <u>Andreas Gieryic</u>	Appeal No.: <u>8914598</u>
	S. S. No.:
Employer: <u>Tri-State Motor Transit Co.</u>	L O. No.: <u>22</u>
	Appellant: <u>CLAIMANT</u>

Issue:

Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law; whether the claimant was discharged for gross misconduct, connected with his work, within the meaning of Section 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 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.

March 14, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— 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 claimant resigned his position rather than be discharged, after being given that option by his supervisor. The claimant admitted to altering his time cards on two occasions. The first time resulted in a reprimand and three-day suspension. The second alteration, which happened about three months later, resulted in his discharge.

A claimant who resigns in lieu of discharge does not show the requisite intent to quit. See, Allen v. CORE Target City Youth Program, 275 Md. 69, 338 A.2d 237 (1975). Therefore, a resignation in lieu of discharge is treated as a termination under Section 6(b) or 6(c), Miller v. William T. Burnett & Co., 442-BR-82.

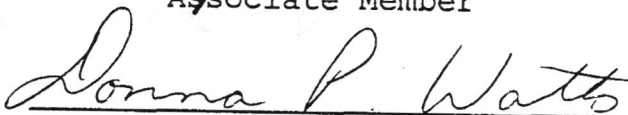
In this case, the claimant altered his time cards, knowingly and willfully, in an attempt to receive more wages than to which he was entitled. These actions constitute gross misconduct under Section 6(b) of the Maryland Unemployment Insurance Law.

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 October 15, 1989 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$2,050) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.


Associate Member


Associate Member

W:W

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE -
BEL AIR

 **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

— DECISION —

Claimant: Andreas Gieryic
Employer: Tri-State Motor Transit Co.
Issue: Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law.

Mailed: 12/27/89
Appeal No.: 8914598
S. S. No.:
LO. No.: 22
Appellant: Claimant

— 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 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

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON **January 11, 1990**

— APPEARANCES —

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Larry Simmons,
Maintenance Supervisor

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits at Bel Air, effective October 22, 1989.

The claimant had been employed by Tri-State Motor Transit Company for approximately ten years as a safety inspector at a last pay rate of \$8.26 per hour.

The Claimant began suffering emotional stress for which he saw a psychologist. He was becoming increasingly dissatisfied with the work, and he felt underpaid. The psychologist suggested the claimant set new vocational goals.

The claimant also felt that the company owed him money. As a result, on at least two occasions, he altered his time card to obtain a differential. The claimant admitted this to the supervisor. The matter had also come to the attention of the supervisor for the reason that an employee had reported that the claimant had two time cards in his possession. The claimant was permitted the opportunity to resign in lieu of being discharged.

CONCLUSIONS OF LAW

The claimant elected to resign his position with Tri-State Motor Transit Company after he admitted to the employer that he had altered his time cards in order to increase his compensation. The claimant's resignation under these circumstances was without "good cause" within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. In addition, the claimant has failed to show any "valid circumstances" for voluntarily leaving otherwise gainful employment, or that he had justification for his admission of changing or altering his time card. Under those circumstances, the employer could have elected to discharge him for gross misconduct connected with his work.

DECISION

The claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning October 15, 1989 and until the claimant becomes employed and earns at least

ten times his weekly benefit amount or \$2,050.00 and thereafter becomes unemployed through no fault of his own.

Robin L. Brodinsky / pdd
Robin L. Brodinsky
Hearing Examiner

Date of Hearing: 12/14/89
pdd/Specialist ID: 22144
Cassette No: 10287
Copies mailed on 12/27/89 to:

Claimant
Employer
Unemployment Insurance - Bel Air (MABS)