



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: 383-5032

BOARD OF APPEALS
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Associate Members
SEVERN E. LANIER
Appeals Counsel

STATE OF MARYLAND
HARRY HUGHES
Governor

RUTH MASSINGA
Secretary

—DECISION—

	DECISION NO:	2044-BH-83
	DATE:	October 24, 1983
CLAIMANT: Barbara J. Chambers	APPEAL NO:	12790
	S.S.NO.:	
EMPLOYER: White Coffee Pot	LO. NO:	45
	APPELLANT:	EMPLOYER

ISSUE

Whether the claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of §6(a) 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

November 23, 1983

— APPEARANCE —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Barbara Chambers - Claimant
Rev. Junior Chambers - Father

Leroy Singer-
Personnel
Supervisor
Tony Glover-
Director of
Security

EVIDENCE CONSIDERED

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 into this case, as well as Employment Security Administration's documents in the appeal file.

The Board does not find credible the claimant's testimony that she did not take the money in question, particularly in view of Employer's Exhibits 1 and 2. The Board does not find credible the claimant's testimony that she was fired.

FINDINGS OF FACT

The claimant was employed by White Coffee Pot Family Inns, Inc. from June 1980 until the claimant resigned on or about November 4, 1981.

The claimant was accused by the employer of taking money out of the employer's operating fund, without permission. In a signed statement the claimant agreed to repay the \$172.47; she also agreed to continue working at the restaurant for at least two more weeks. The Board finds as a fact that the claimant did take the \$172.47.

Nevertheless, the claimant resigned without giving any reason, on or about November 4, 1981, after she gave the employer a check for \$100.05. The employer had not made a final decision to discharge the claimant at the time that she quit.

CONCLUSIONS OF LAW

The Board of Appeals concludes that the claimant voluntarily quit without good cause or valid circumstances within the meaning of §6(a) of the Law. The evidence is more than sufficient that the claimant took the money in question; therefore the employer's action in requiring restitution was reasonable. Further, the claimant failed to explain why she quit. Since the burden is on the claimant to show her reason constituted good cause or valid circumstances, she has failed to meet that burden. Therefore the maximum penalty is appropriate.

DECISION

The claimant left work voluntarily, without good cause within the meaning of §6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning November 1, 1981, and until she becomes reemployed, earns at least ten times her weekly benefit amount (\$620.00) and thereafter becomes unemployed through no fault of her own.

The decision of the Appeals Referee is reversed.

Hazel A. Warrick
Associate Member

Maurice E. Bill
Associate Member

Thomas W. Keech
Chairman

W:D:K

vh

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - PIMLICO



STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

DEPARTMENT OF HUMAN RESOURCES
 EMPLOYMENT SECURITY ADMINISTRATION
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BOARD OF APPEALS
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 Chairman
 MAURICE E. DILL
 HAZEL A. WARNICK
 Associate Members
 SEVERN E. LANIER
 Appeals Counsel
 MARK R. WOLF
 Administrative
 Hearings Examiner

- DECISION -

CLAIMANT: Barbara J. Chambers
 DATE: Nov. 8, 1982
 APPEAL NO.: 12790
 S. S. NO.:
 EMPLOYER: White Coffee Pot Family Inns, Inc. L. O. NO.: 45
 APPELLANT: Claimant

ISSUE: Whether the claimant was discharged for gross misconduct connect-
 ed with her 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, 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 23, 1982

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Barbara J. Chambers - Claimant
 Rev. Junior Chambers

Leroy Singer - Personnel
 Supervisor

EVALUATION OF THE EVIDENCE

The claimant was accused by the employer of stealing money from its operating funds. The claimant had offered to take a lie detector test to refute that allegation. No lie detector test was offered, although in the past the employer had requested the claimant and others to submit to such test. The employer alleged that it had a statement signed by the claimant that she had admitted the wrongdoing, taking the money, and that she had made restitution in full. The employer was unable to produce any such

statement at the hearing and could not offer definitive testimony or evidence as to the amount taken. According to the claimant, she did sign a statement which she asserts stated that she was not admitting stealing the money, but she was willing to make restitution of any loss; that she did not know the amount which had been taken. According to the claimant, the money must have been taken by the other cashier, who had access to it at the time. The claimant offered to repay the employer for its losses, because she felt sorry for the other cashier who had family problems and did not want to cause trouble for her.

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits at Pimlico, effective September 19, 1982.

The claimant was last employed by White Coffee Pot in October, 1981, as a cook at a pay rate of \$3.85 per hour. Between 8 P. M. and 10:30 P. M. each evening, the claimant was responsible for the cash register. The employer's security personnel accused the claimant of having taken money from the employer's operating funds. The exact amount of the loss is unknown to the Appeals Referee. No admission of guilt is in evidence. The claimant made restitution of monies taken, because she felt sorry for the person whom she suspected had taken it. At certain times, the claimant was responsible for cash receipts.

CONCLUSIONS OF LAW

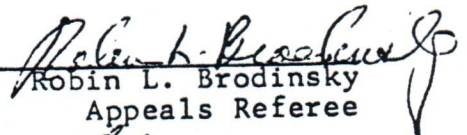

It is concluded that the claimant was discharged for misconduct connected with her work within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. The claimant's conduct in failing to disclose information with respect to the wrongdoing of another and attempting to protect that person by offering to repay monies for which she was not legally responsible, and thereby, incurring suspicion upon herself was a substantial basis for the employer to discharge the claimant for assumed wrongdoing. However, in the absence of evidence of guilt, or admission by the claimant of taking any monies belonging to the employer, there is insufficient evidence to establish that the claimant's discharge was for gross misconduct connected with her work. Therefore, the determination of the Claims Examiner shall be modified.

DECISION

It is held that the claimant was discharged for misconduct connected with her work within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning November 1, 1981 and the nine 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 Compensation (FSC), unless the claimant has been employed after the date of the disqualification.


Robin L. Brodinsky
Appeals Referee


Date of hearing: 10/27/82
amp/8480
(Hampton)
6204
Copies mailed to:

Claimant
Employer
Unemployment insurance - Pimlico