

 **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.:	256-BR-90
	Date:	March 15, 1990
Claimant: James M. Tate	Appeal No.:	8916081
	S. S. No.:	
Employer: Armscorp of America, Inc. ATTN: J. H. Friesde, Pres.	L O. No.:	2
	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 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, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON April 14, 1990

— 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.

On Monday, November 13, 1989, the claimant in this case got into an argument with a co-worker who was functioning as a lead worker or informal supervisor. The claimant was accused of working on his truck on company time. It is unclear whether he was actually doing this or not -- so no finding of fact can be made on this issue. In any case, a heated argument ensued between the claimant and this informal supervisor named Scott.

The claimant left the site of the argument and visited the president of the company. The claimant stated words to the effect that he had problems and was leaving. The president asked the claimant what was wrong, but the claimant refused to say anything other than that he was leaving. He left the premises and did not show up again until the next day.

The employer assumed that the claimant had quit. When the claimant showed for work the next day, the employer advised him that he no longer had a job there. Afterwards, an even more bitter argument began between the claimant and Scott.

The Board concludes that the claimant was discharged on November 14. He did not subjectively have the intent to quit on the previous day, and his actions did not clearly show an intent to quit the job.

The Board also concludes that the claimant was discharged for misconduct. It makes no difference whether Scott was his supervisor or not. The claimant simply had no right to walk off the job before the work day was through, no matter who was his supervisor. In any case, if he was not sure who his supervisor was, he cannot benefit from that argument after he refused to talk to the president of the company about his problem. The employer, on the other hand, has not really proven its other allegations against the claimant involving working on his truck on company time.

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 from the week beginning November 12, 1989 and the nine weeks immediately following.

The decision of the Hearing Examiner is reversed.

Thomas W. Keech

Chairman

Donna P. Watts

Associate Member

K:D

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - GLEN BURNIE

 **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

— D E C I S I O N —

Date: Mailed: January 22, 1990

Claimant: James M. Tate

Appeal No.: 8916081

S. S. No.:

Employer: Armscorp of America

LO. No.: 02

Appellant: Claimant

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.

— 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

February 6, 1990

— A P P E A R A N C E S —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

James M. Tate - Claimant

John Friese,
President
Cindy Wong,
General Manager

FINDINGS OF FACT

The claimant was employed from September 18, 1989 as a machinist, working the CNC at a pay rate of \$7 per hour for full-time employment.

On November 13, 1989, while the claimant was trying to do his job, he was being corrected by a person he believed to be a co-worker. When the discussion became somewhat heated, the claimant became upset and told the supervisor that he was going home and the reason that he was doing so. He told the supervisor that he was coming back the next day and did so. When he returned on November 14, 1989, he was told not to punch in and learned soon thereafter that he had been fired.

The claimant was unaware that the person who was correcting his work performance was an informal supervisor at the place of employment. The heated discussion that occurred between the claimant and this person did not occur until after the claimant had been told he was fired.

CONCLUSIONS OF LAW

It is held that the claimant was discharged by decision of the employer but the circumstances are insufficient to constitute misconduct connected with the work, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. The claimant will not be disqualified concerning his separation from employment on or about November 14, 1989.

The determination of the Claims Examiner which denied benefits under Section 6(a) of the Law will be reversed.

DECISION

The claimant was discharged but not for misconduct connected with the work, within of Section 6(c) or 6(b) of the Maryland Unemployment Insurance Law.

He is entitled to benefits for the week beginning November 12, 1989 and thereafter if he be otherwise eligible under the Law.

The determination of the Claims Examiner under the provisions of Section 6(a) is hereby reversed.



P.J. Hackett
Hearing Examiner

Date of Hearing: January 12, 1990
bch/Specialist ID: 02423
Cassette No: 137 B & 138 A
Copies mailed on January 22, 1990 to:

Claimant
Employer
Unemployment Insurance - Glen Burnie (MABS)