



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383 - 5032

- DECISION -

STATE OF MARYLAND
HARRY HUGHES
Governor

BOARD OF APPEALS
THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

DECISION NO.: 301-BH-84

DATE: March 20, 1984

APPEAL NO.: 11207

S.S NO.:

CLAIMANT: Charles H. Roux

Employer: Maryland National Bank
ATTN : Raymond L. Ray, Super.
of Lock Box

L.O. NO.: 1

APPELLANT: CLAIMANT

ISSUE: Whether the Claimant was discharged for gross misconduct connected with the work within the meaning of §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 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 April 19, 1984

- APPEARANCE -

FOR THE CLAIMANT:

Charles H. Roux -
Claimant ;
Richard North -
Esquire , Clinical
Law Program;
Katie Nichol -
Law Student

FOR THE EMPLOYER:

Tom Henning -
Esquire ;
Frank Snyder -
Auditor;
Nick Russo -
Manager;
Raymond Ray -
Super .

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 the Department of Employment and Training's documents in the appeal file.

The employer's evidence includes a signed admission by the Claimant that he took the envelope and checks from the bank and threw them away. Before the Board of Appeals, the Claimant admitted signing this statement but alleged that he signed it under duress and totally denied any knowledge of or participation in the incident in question.

The Board does not find the Claimant's denials to be credible.

FINDINGS OF FACT

The Claimant was employed by the Maryland National Bank as an operations clerk for over four years, until approximately August 29, 1983. One of the Claimant's duties was to mail out checks from the closed accounts department.

In August, 1983, the Claimant started falling behind in his work and a backlog of checks to be mailed by the Claimant to the closed account customers developed. Approximately three weeks prior to August 29, 1983, the Claimant, in a desperate effort to rid himself of the backlog, took approximately 40 pieces of mail that had come to the bank, containing checks to closed account customers valued at over a half million dollars, threw them in an envelope, took the envelope out of the bank and threw it into a vacant yard, several blocks from his home.

The envelope was later discovered by someone in a trash receptacle and that person returned it to the bank. An investigation by the bank's auditors led them to question the Claimant regarding his knowledge of this incident.

The interview was conducted in an auditor's office with two men questioning the Claimant. The Claimant was free to leave at any time and was never threatened by either man. Although the Claimant initially denied any knowledge of the checks, after about one hour of questioning he admitted taking the checks and disposing of them.

The Board finds as a fact that the Claimant was not coerced and that his admission was freely given.

After he left the auditor's office, the Claimant went to see a supervisor, who informed him that he was discharged. The Claimant again admitted his actions to the supervisor.

CONCLUSIONS OF LAW

Clearly, the Claimant's actions in removing checks from the bank and throwing them away, constitute a deliberate and willful disregard of standards of behavior which his Employer had a right to expect, showing a gross indifference to the Employer's interest and is gross misconduct within the meaning of §6(b) of the law.

The Claimant admitted what he had done both to the auditors and then again to one of his supervisors. There is nothing in either the testimony of the Claimant or the Employer's witnesses that shows that the Claimant's admission was coerced in any way.

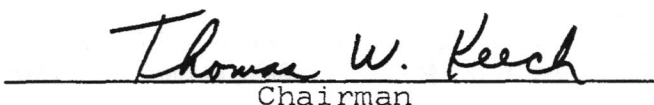
DECISION

The Claimant was discharged for gross misconduct, connected with the work, within the meaning of §6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning August 28, 1983 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1,490) and thereafter becomes unemployed through no fault of his own.

The decision of the Appeals Referee is affirmed.


Associate Member


Associate Member


Chairman

W:D:K

kbm

Date of Hearing: March 6, 1984

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Mr. Richard North, Esq.
Ms. Katie Nichols, Law Student
University of Maryland Law Clinic

Thomas A. Henning, Esq.
Maryland National Bank
Legal Division

UNEMPLOYMENT INSURANCE - BALTIMORE



**DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
383 - 5040**

STATE OF MARYLAND
HARRY HUGHES
Governor
KALMAN R. HETTLEMAN
Secretary

BOARD OF APPEALS
THOMAS W. KEECH
Chairman
MAURICE E. DILL
HAZEL A. WARNICK
Associate Members
SEVERN E. LANIER
Appeals Counsel
MARK R. WOLF
Administrative
Hearings Examiner

- DECISION -

CLAIMANT: Charles H. Roux
EMPLOYER: Maryland National Bank
ISSUE: Whether the claimant was discharged for gross misconduct connected with the work within the meaning of Section 6(b) of the Law.

DATE: Dec. 21, 1983
APPEAL NO.: 11207
S. S. NO.:
L. O. NO.: 1
APPELLANT: Claimant

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 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON January 5, 1984

- APPEARANCES -

FOR THE CLAIMANT:

Charles L. Roux - Claimant
Katie Nichols, Student Attorney -
Clinical Law Program
Richard North, Esquire -
Clinical Law Program

FOR THE EMPLOYER:

Thomas Henning, Esquire;
Joseph Lovett -
Special Investigations;
Raymond L. Ray -
Supervisor of Lock
Box Department

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits effective August 28, 1983.

The claimant was employed by Maryland National Bank for approximately four and one-half years, his last job classification as an operations clerk. He last worked for this employer on or about August 29, 1983.

The claimant was terminated from his employment for taking an envelope from his work place containing checks to be returned to closed account customers from his employer's premises and throwing the envelope in a yard around his neighborhood.

The claimant, prior to this act, was warned of a backlog in his assignment in filling out closed accounts, an assignment only handled by the claimant.

The claimant admitted his act after approximately a two-hour oral interrogation. This interrogation was reduced to writing. The claimant never asked to leave or to interrupt the two-hour interrogation. The employer notified the claimant before the interrogation began of the necessity of informing the F.B.I., for the bank was a federally chartered bank.

CONCLUSIONS OF LAW

The claimant's act in removing closed account checks from his employer's premises and then throwing these checks in a yard around his neighborhood, demonstrates a gross indifference to the employer's interest and a wanton disregard of one's obligation falling within the gross misconduct provision of Section 6(b) of the Maryland Unemployment Insurance Law. The determination of the Claims Examiner was warranted and will be affirmed.

DECISION

The claimant's unemployment was due to an act demonstrating gross misconduct in connection with his work within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. The claimant is disqualified from unemployment insurance benefits for the week beginning August 28, 1983 and until he becomes reemployed and earns at least ten times his weekly benefit amount (\$1490) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is affirmed.

DATE OF HEARING: November 9, 1983

ras

(3475 & 8497 --- Lancaster)

copies mailed to:

Claimant
Employer
Unemployment Insurance - Baltimore

University of Maryland -
School of Law
ATTN: Katie Nichols

University of Maryland -
School of Law
ATTN: Richard North, Esquire