

# Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street  
Baltimore, Maryland 21201  
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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.: 377 -BR-88  
Date: May 17, 1988  
Claimant: Delores Brooks  
Appeal No.: 8713190  
S. S. No.:  
Employer: Conston of Maryland, Inc.  
c/o GAB Business Services, Inc.  
L. O. No.: 45  
Appellant: CLAIMANT

Issue: Whether the claimant was discharged for gross misconduct or misconduct, connected with her 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 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.

June 16, 1988

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 worked as an assistant manager for the employer's store in Mondawmin Mall for about six years. She was fired for an incident which occurred on September 29, 1987.

The employer engaged the services of a security company, who employed a security guard to work on the premises of the store. The claimant had registered a complaint against this security guard. On the morning in question, the security guard, upset upon hearing that there had been some type of complaint about her performance, asked to speak to the claimant in the stock room, which was the appropriate place to air such matters.

The discussion degenerated into a heated argument which continued when they left the stock room and entered the store. The security guard accused the claimant of stealing from the store and trying to get rid of her. They called the security guard's supervisor on the phone, and the claimant argued with him about exactly what complaints she had lodged against the security guard. The end result of that conversation was the security guard's supervisor ordering the security guard to leave the premises. She refused to do this or come to the phone. Instead, she went to her post on the selling floor and refused to leave.

The claimant became enraged and started yelling and screaming at the security guard, ordering her to leave. From time to time, the argument spilled out into the mall corridor. Eventually, the security guard's supervisor came to the site and forced the security guard to turn in her badge and leave. The claimant was fired for engaging in this shouting match, which had disrupted business not only in the employer's store but in the mall itself.

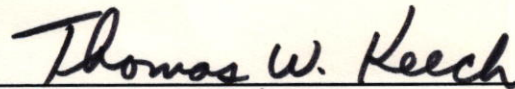
The claimant's actions constitute gross misconduct only if they meet the statutory definition in Section 6(b) of the law. Since the claimant's action was not a series of repeated violations, it is gross misconduct only if it is a deliberate and willful disregard of standards of behavior her employer had a right to expect, showing a gross indifference to her employer's interest. The claimant's actions in this case simply do not meet this standard. The claimant clearly lost her temper and engaged in inappropriate conduct, but she was seriously provoked by the actions of the security guard, who was blatantly violating the orders not only of the claimant but also of her own direct supervisor. It is clear that the claimant did not begin the argument, and it is also clear that her object (the removal of the security guard) was reasonable. Her inappropriate conduct, however, did contribute to the

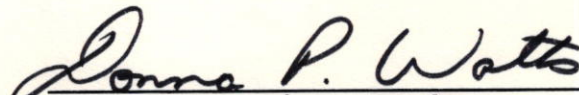
escalation of the argument, and it does constitute misconduct under Section 6(c) of the law.

DECISION

The claimant was discharged for misconduct, connected with her work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning September 27, 1987 and the nine weeks immediately following.

The decision of the Hearing Examiner is reversed.

  
Chairman

  
Associate Member

K:DW

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Legal Aid Bureau, Inc.  
ATTN: Kathy Anderson, Paralegal

Judy-Lynn Goldenberg, Esq.

UNEMPLOYMENT INSURANCE - NORTHWEST

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

STATE OF MARYLAND  
William Donald Schaefer  
Governor

--- DECISION ---

Date: Mailed: 1/21/88  
Claimant: Delores C. Brooks Appeal No: 8713190-EP  
S.S. No.:  
Employer: Conston of Maryland, Inc. L.O. No.: 45  
GAB Business Services, Inc. Appellant: Employer

Issue:

Whether the claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) of the Law.

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--- 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

2/5/88

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--- APPEARANCES ---

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

Bernadette Hines,  
Assistant Manager  
Claudette Colston,  
Manager  
Tamara Johnson,  
3rd Assistant of  
16 Plus  
Carol Barmgardner,  
Supervisor/Observer  
Judy-Lynn  
Goldenberg, GAB

FINDINGS OF FACT

The claimant was employed by Constant of Maryland from July 1981 until October 1, 1987, as an Assistant Manager. This was a

full-time job and the claimant normally worked 38 to 40 hours per week.

The claimant was an Assistant Manager of the store in Mondawmin Mall. There was a Security Guard on the premises at all times in this particular store. These guards are hired by the company. Normal rules require that things to be discussed with the security officer is done in the stock room and not out in the open where customers and/or other mall employees are present.

On Tuesday, September 29, 1987, the claimant became involved in an argument with the assigned security guard. The discussion between the two began in the stockroom, but over-flowed out into the store itself. The security guard's main station was within a few feet of the entrance to the mall from the store. During the discussion, the claimant and the security guards began yelling at each other. This drew a crowd of other shoppers in the mall although the store had no customers at the time of the argument. The claimant had called the security guard's captain and was attempting to tell the security guard to leave the premises as he had directed. This, the security guard refused to do and the claimant ensued. The claimant and the security guard became very loud and this disturbed other shoppers.

As a result of the argument between the claimant and the security guard, the employer got a call from the management of the mall indicating that customers had complained about the fuss, that the claimant and the security guard had on the premises. The employer investigated the incident and the claimant was terminated.

#### CONCLUSIONS OF LAW


Section 6(b) of the Maryland Unemployment Insurance Law requires the denial of benefits until re-employment when it is held that an individual was discharged for gross misconduct connected with her work. The term "gross misconduct" is defined in the Act as a deliberate, willful disregard of the standards of behavior which the employer has the right to expect, showing a gross indifference to the employer's interest, or a series of repeated violations of employment rules proving that the employee has regularly and wantonly disregarded her obligations. A lesser disqualification is imposed when an individual is discharged for misconduct connected with her work. The term "misconduct" means a substantial deviation from the proper standards of conduct. Both terms connote the element of a deliberate or willful wrongdoing. Based upon the testimony presented at the appeal hearing, it is concluded that the claimant demonstrated her

disregard of the employer's standards of behavior by continuing with the argument with the security guard once they left the store room area. By this continued arguing in the store, customers complained and the mall management contacted the employer. Under these circumstances, it must be found that the claimant was discharged for gross misconduct connected with the work, within the meaning of Section 6(b) of the Law.

DECISION

The claimant was discharged for gross misconduct connected with the work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning September 27, 1987 and until the claimant becomes re-employed, earns at least ten times her weekly benefit amount and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is reversed.

  
Seth Clark  
Hearing Examiner

Date of hearing: 1/7/88

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(8114)-Shannon

Copies mailed on 1/21/88 to:

Claimant  
Employer  
Unemployment Insurance - Northwest - MABS

Judy-Lynn Goldenberg

GAB Business Service, Inc.

The Charles Shop