

# Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033

William Donald Schaeter, 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.:	434 -BR-88
Date:	May 31, 1988
Appeal No.:	8800027
S. S. No.:	
Employer:	Lorenzo's, Inc.
L. O. No.:	
Appellant:	

Claimant: Renee Reno

Issue: Whether the claimant was discharged for misconduct, connected with her 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 MAYBE 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 ON

June 30, 1988

**— 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 and concludes that the claimant was discharged, but for a non-disqualifying

reason within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law.

The Board adopts the Hearing Examiner's Findings of Fact, but rejects his Conclusions of Law that the claimant's act of paying herself out of the register was unreasonable and amounted to misconduct. The uncontradicted testimony presented substantiates that this was a common practice and condoned by the employer. It is not the Hearing Examiner's prerogative to decide what the employer should or shouldn't allow in his place of business.

DECISION

The claimant was discharged, but not for misconduct within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon her separation from Lorenzo's, Inc. The claimant may contact her local office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.

  
\_\_\_\_\_  
Associate Member

  
\_\_\_\_\_  
Chairman

DW:K  
COPIES MAILED TO:

CLAIMANT  
EMPLOYER  
UNEMPLOYMENT INSURANCE - EASTPOINT

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

STATE OF MARYLAND  
William Donald Schaefer  
Governor

--- DECISION ---

Date: Mailed March 11, 1988  
Claimant: R. P. Reno  
Appeal No: 8800027  
S.S. No.:  
Employer: Lorenzo's, Inc.  
L.O.No.: 40  
Appellant: Claimant

Issue: Whether the Claimant was discharged for misconduct connected with his 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 RUNG A FURTHER APPEAL EXPIRES AT MIDNIGHT ON March 28, 1988  
NOTICE: APPEALS FILED BY MAIL INCLUDING SELF-METERED MAIL ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK

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— APPEARANCES —

FOR THE CLAIMANT

FOR THE EMPLOYER:

Present

Not Represented

FINDINGS OF FACT

The Claimant filed an original claim for unemployment insurance benefits at Eastpoint, effective November 29, 1987.

The Claimant was first employed by Lorenzo's, Inc. on November 7, 1987 as a barmaid, earning \$20.00 per night plus tips. She worked three nights per week.

On November 16, 1987, the Claimant was in an automobile accident in the afternoon. She called the employer and advised them of this. She felt very bad. The employer urged the Claimant to report for work, and he volunteered to pick her up as her automobile had been damaged. The Claimant complied. She worked that night. Her regular day off was the next day, November 17. She went to see her doctor. The Claimant worked on November 18, from 6 p.m. until 2 a.m. The doctor had advised her to be off for two weeks. The Claimant left the doctor's note in the register stating that she had to be off for two weeks. Since the employer owed her two days' pay, she took \$40.00 out of the register. The employer had permitted this kind of self pay in the past. The Claimant left a note advising that she had taken the \$40.00. On or about December 2, 1987, the employer advised the Claimant that he did not want her back; that she was fired.

#### CONCLUSIONS OF LAW

On the one hand, a discharge while an employee is injured or under the care of a doctor, constitutes a discharge for a non-disqualifying reason within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. On the other hand, the Claimant helped herself to two days' pay out of the register. While the Claimant asserts that such practice had been condoned by the employer, I believe that such was unreasonable conduct on the part of the Claimant. Therefore, it is concluded that she was discharged for misconduct connected with her work within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. The minimum disqualification as permitted by the Statute shall be imposed.

#### 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

8800027

Unemployment Insurance Law. Benefits are denied for the week beginning November 29, 1987 and the four weeks immediately following.

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Robid L. Brodinsky  
Hearing Examiner

Date of Hearing: February 22, 1988

Cassette: 825

Specialist ID: 40312

Copies Mailed on March 11, 1988 to:

Claimant

Employer

Unemployment Insurance - Eastpoint (MABS)