



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND  
HARRY HUGHES  
Governor

BOARD OF APPEALS  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH  
Chairman

HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members

SEVERN E. LANIER  
Appeals Counsel

MARK R. WOLF  
Chief Hearing Examiner

— DECISION —

Decision No.: 476-BR-85

Date: July 18, 1985

Claimant: Jose R. Morales

Appeal No.: 00225

S. S. No.:

Employer: Bryan & Associates, Inc.  
ATTN : Bil Cochran, Gen. Mgr.

L.O. No.: 7

Appellant: CLAIMANT

Issue: Whether the claimant was discharged for misconduct, connected with the work, within the meaning of §6(c) of the law.

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— 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 ON

August 17, 1985

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— 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 Appeals Referee.

The claimant was discharged because he mistakenly painted the wrong floor, after being told to do so by the building superintendent, and because the employer was generally dissatisfied with his work.

There is insufficient evidence that the claimant's actions were deliberate and caused by anything other than incompetence or simply an innocent mistake. This is not misconduct under the Unemployment Insurance Law. Lee v. Memorial Hospital, 1327-BH-82; Hartman v. Polystyrene Products Company, Inc., 164-BH-83.

DECISION

The claimant was discharged, but not for misconduct connected with the work, within the meaning of §6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon his separation from employment with Bryan & Associates, Inc. The claimant may contact the local office concerning the other eligibility requirements of the law.

The decision of the Appeals Referee is reversed.

  
Associate Member

  
Associate Member

W:D

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - COLLEGE PARK



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND  
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BALTIMORE, MARYLAND 21201

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Chief Hearing Examiner

— DECISION —

Date: Mailed: Feb. 11, 1985

Claimant: Jose R. Morales

Appeal No.: 00225-EP

S. S. No.:

Employer: Bryan & Associates, Inc.

LO. No.: 7

Appellant: Employer

Issue: Whether the claimant was discharged for misconduct connected with his work within the meaning of Section 6(c) 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON February 26, 1985

— APPEARANCES —

FOR THE CLAIMANT:

Jose R. Morales - Claimant

FOR THE EMPLOYER:

Bill Cochran - General  
Manager

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits, effective November 25, 1984.

The claimant was employed by Bryan & Associates, Inc., for approximately six months, his last job classification as a painter at an hourly wage rate of \$8.00. He last worked for this employer on or about November 29, 1984.

The claimant was terminated from his employment for failure to follow his employer's instructions as to what area of a building he was to paint.

The employer showed the claimant the definite areas he was to paint. The claimant followed instructions of a person who informed him that it was okay to paint the second floor. The claimant painted the second floor, which caused unnecessary business expenses, for the employer did not have any contract to paint the second floor. The claimant indicates that he has problems understanding the English language.

CONCLUSIONS OF LAW

The claimant's failure to follow the instructions of his employer, when specifically shown the work that was to be done by his employer, demonstrates an act of misconduct in connection with one's work within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. However, there are mitigating factors present to warrant the imposition of a minimum disqualification, for the claimant has some trouble understanding the English language and thought the person who directed him was acting in good faith.

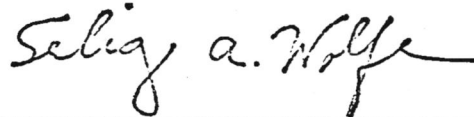
DECISION

The claimant's unemployment was due to an act demonstrating misconduct in connection with one's work within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. The claimant is disqualified from receiving unemployment insurance benefits for the week beginning November 25, 1984 and the four weeks immediately following.

The determination of the Claims Examiner is reversed.

The Employer's Protest is sustained.

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.



Selig A. Wolfe  
Senior Appeals Referee

Date of hearing: 1/23/85  
amp/8438  
(Mayfield)  
0494

Copies mailed on February 11, 1985 to:

- Claimant
- Employer
- Unemployment insurance - College Park