



DEPARTMENT OF EMPLOYMENT AND TRAINING

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

STATE OF MARYLAND
HARRY HUGHES
Governor

-DECISION-

DECISION NO.: 507-BR-84

DATE: MAY 22, 1984

APPEAL NO.: 00449

S.S.NO.: -----

CLAIMANT: Linda C . Goodall
e.
Landover , Maryland 20785

EMPLOYER: Holy Cross Hospital

LO. NO.: 7

APPELLANT: EMPLOYER

ATTN: Constance Coleman,
Food Production Manager

ISSUE Whether the Claimant was discharged for misconduct, connected.
with the work, within the meaning of § 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT June 21, 1984

-APPEARANCE-

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

After having reviewed the record in this case, the Board of Appeals reverses the decision of the Appeals Referee.

The Appeals Referee's decision contains insufficient findings of fact regarding the incident wherein the Claimant was fighting with another employee on the job. Although the Claimant may have been struck by another employee, the evidence is also uncontested that the Claimant attempted to continue the fight, after a supervisor had intervened and while the fighting co-worker was attempting to leave the premises. This attempt on the part of the Claimant took place after she had been specifically warned to stop and indeed while the supervisor was physically attempting to restrain the Claimant from attempting to retaliate against the co-worker.

This action is a deliberate violation of standards of conduct an employer has a right to expect, showing a gross indifference to the employer's interest. This is gross misconduct as defined in § 6(b) of the Maryland Unemployment Insurance Law.

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 October 30, 1983 and until he becomes re-employed, earns at least ten times his weekly benefit amount and thereafter becomes unemployed through no fault of his own.

The decision of the Appeals Referee is reversed.

Thomas W. Keech
Chairman

Joseph A. Warrick
Associate Member

K:W
dp

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - COLLEGE PARK

The claimant had been employed by Holy Cross Hospital for a period of six months as a Relief Cook, at a pay rate of \$6.02 per hour.

During her six months of employment, the claimant was tardy eleven times and absent five times. According to the standards of the employer, her attendance record was very poor. On October 21, 1983, the claimant became involved in an altercation with a male employee. A security guard was summoned. Although the altercation was not observed by the witnesses, a mark was noted on the claimant's neck. The claimant was heard to have said that the male employee had hit her and hurt her. The claimant was suspended for three days and directed to appear at 1:00 p.m. for a meeting with supervision. The claimant failed to appear for the meeting, but called to attempt to explain why she was unable to be present. When the claimant appeared on the following day, at the direction of her supervisor, she was Germinated.

The claimant believed that she was assaulted by the male employee, because she had observed him and several other males in the rear of the kitchen holding what she believed to be a bag of drugs.

CONCLUSIONS OF LAW

There is Insufficient evidence to establish either a deliberate and willfull disregard of standards of behavior which an employer would have the right to expect, or a gross indifference to the employer's interest. However, it is the cumulative record which brought about her discharge including her failure to report for a counseling session with management on October 27, .983. The repeated instances of tardiness and absenteeism alone would constitute a sufficient basis for discharge for misconduct connected with her work.

Accordingly, it is concluded that the cause of the claimant's unemployment was due to being discharged for misconduct connected with her work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law.

DECISION

It is held that the claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning October 30, 1983, and the nine weeks immediately following.



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

BOARD OF APPEALS
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STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

- DECISION -

CLAIMANT: Linda C. Goodall
 DATE: 2/16/84
 APPEAL NO.: 00449
 S.S. NO.:
 EMPLOYER: Holy Cross Hospital
 L.O. NO.: 7
 APPELLANT: Claimant
 SUE: Whether the claimant was discharged for gross misconduct connected with the work, within the meaning of Section 6(b) 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON March 2, 1984

- APPEARANCES -

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

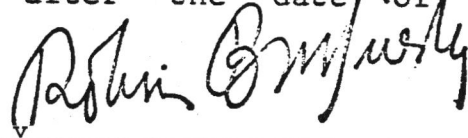
Constance Coleman,
 Food Production
 Manager
 Carla Robinson,
 Evening Supervisor
 Jim Stuller,
 The Gibbens
 Company, Inc.

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits at College Park, effective November 6, 1983.

The determination of the Claims Examiner is reversed.

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.



Robin L. Brodinsky
Appeals Referee

Date of hearing: 2/2/84

rc

(913)-Gross

Copies mailed to:

Claimant
Employer
Unemployment Insurance - College Park

The Gibbens Company, Inc.
Attn: Jim Stuller