

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032

Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

	Decision No.:	51-BR-91
	Date:	January 14, 1991
Claimant: Dale A. Conaway	Appeal No.:	9014291
	S. S. No.:	
Employer: Oxford Realty Services Corp. c/o ADP/UCM Department	L. O. No.:	23
	Appellant:	EMPLOYER

Issue:

Whether the claimant was discharged for gross misconduct or misconduct, connected with the 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 ON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, IF YOU RESIDE IN 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

February 13, 1991

— 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 Board adopts the findings of fact of the Hearing Examiner. However,

the Board concludes that the facts of this case are sufficient to sustain a finding of gross misconduct as defined in Section 6(b) of the Maryland Unemployment Insurance Law.

The facts of this case are not only that the claimant called in sick when he wasn't, but that he requested that the employer lie to the authorities at the detention center. The claimant's behavior was a deliberate and willful disregard of standards of behavior, which his employer has a right to expect, showing a gross indifference to the employer's interest.

DECISION

The claimant was discharged for gross misconduct, connected with his work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning July 8, 1990 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1,560), and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.



Associate Member



Chairman

DW:K

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - COLUMBIA



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

Date: Mailed: 11/26/90

Claimant: Dale A. Conaway Appeal No.: 9014291

S. S. No.:

Employer: Oxford Realty Services Corp. LO. No.: 023
c/o ADP Appellant: Claimant

Issue: 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, 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 December 11, 1990

— APPEARANCES —

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Eleanor Pulieo,
Resident Manager
and
William Oeser, ADP

FINDINGS OF FACT

The claimant was discharged and applied for benefits. The Claims Examiner determined that he was discharged for gross misconduct and the maximum penalty was imposed. He appeals. The employer leases apartments. From April 20, 1990 through July 12, 1990, the claimant was employed as an assistant maintenance superintendent.

On May 28, 1990, the claimant was sentenced to work release following a conviction. Under the work release program he was supposed to be either at the jail or at work.

On July 12, 1990, he telephoned the employer and said that he would not report to work because he was ill. The employer called the jail to inquire as to whether he would be in the next day and was informed that he had signed out to go to work. Instead of reporting to work, the claimant had in fact, gone home.

The employer contacted him at home. The claimant asked the employer to support him in his claim that he had reported to work. The employer refused to do so and; consequently, discharged him.

CONCLUSIONS OF LAW

It has been held that as a condition of employment, an employer has the right to expect his workers to report to work regularly, on time, and as scheduled; and in the event of an unavoidable detainment or emergency, to receive prompt notification thereof. (See Rogers v. Radio Shack 271 Md. 126, 314 A.2d 113). Failure to meet this standard amounts to misconduct.

I find that the claimant was discharged for being absent from work on July 12, 1990 and asking the employer to support him in his claim that he had reported to work when in fact he had gone home in violation, of work release regulations. I do not find that this incident alone sufficient to support gross misconduct.

DECISION

The determination of the Claims Examiner is modified.

The claimant was discharged for misconduct, connected with the work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning July 8, 1990 and the four weeks immediately following.

W. Van Caldwell

Van D. Caldwell
Hearing Examiner

Date of Hearing: 11/16/90
ps/Specialist ID: 23380
Cassette No: 9420
Copies mailed on 11/26/90 to:

Claimant
Employer
Unemployment Insurance - Columbia (MABS)