

DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND

BOARD OF APPEALS  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH  
Chairman

HAZEL A. WARNICK

Associate Member

SEVERN E. LANIER

— DECISION —

|           |   |               |          |
|-----------|---|---------------|----------|
|           | Decision No.:                             | 517-SE-87     |          |
|           | Date:                                     | July 23, 1987 |          |
| Claimant: | Carroll Howard                            | Appeal No.:   | 8700131  |
|           |   | S. S. No.:    |          |
| Employer: | Ray Sears & Son                           | L.O. No.:     | 33       |
|           | ATTN: Rich Mott, Estimator/<br>Supervisor | Appellant:    | CLAIMANT |

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 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.

August 22, 1987

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

Carroll Howard - Claimant

FOR THE EMPLOYER:

Donald L. Sears

EVALUATION OF THE EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings before the Hearing Examiner and Special Examiner. The Board

has also considered all of the documentary evidence introduced in this case, as well as the Department of Economic and Employment Development's documents in the appeal file.

#### FINDINGS OF FACT

The claimant worked for the employer for one year as a truck driver working 40 hours per week working from 7:30 a.m. to 4:00 p.m., Monday through Friday. The claimant was discharged by the employer on November 6, 1986, after having been stopped on the Eastern Shore while driving a company truck and charged by the police with driving under the influence of alcohol. His blood level was .31. He was subsequently convicted and fined \$400.00, and his license was suspended for 90 days.

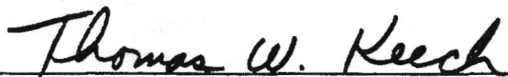
#### CONCLUSIONS OF LAW

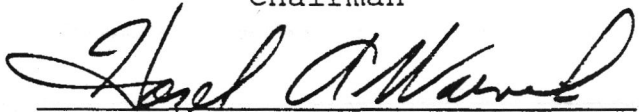
The operation of a company vehicle under the influence of alcohol shows a deliberate and willful disregard of standards of behavior which the employer has a right to expect and is gross misconduct, connected with the claimant's work within the meaning of Section 6(b) of the law.

#### 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. He is disqualified from receiving benefits from the week beginning November 2, 1986 and until the claimant becomes reemployed, earns at least ten times his weekly benefit amount (\$1770.00) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is affirmed.

  
Chairman

  
Associate Member

K:W

kmb

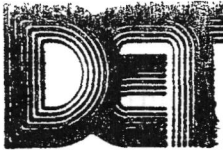
DATE OF HEARING: June 25, 1987

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - PRINCE FREDERICK



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5048

STATE OF MARYLAND
William Donald Schaefer
Governor

BOARD OF APPEALS

THOMAS W. KEECH
Chairman
HAZEL A. WARNICK
Associate Member
SEVERN E. LANIER
Appeals Counselor
MARK R. WOLF
Chief Hearing Examiner

- DECISION -

Date: Mailed: March 19, 1987

Claimant: Carroll Howard

Appeal No: 8700131

S. S. No.:

Employer: Ray Sears & Son, Inc.
d
054

LO. NO.: 33

Appellant:

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 TO PETITION FOR REVIEW -

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW 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 April 3, 1987

- APPEARANCES -

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER:

Rich Mott, Estimator/
Supervisor

FINDINGS OF FACT

The Claimant was employed by Ray Sears & Son for approximately one year as a tractor/trailer driver. The position requires an "A" license. The Claimant was paid \$7.50 per hour.

On November 6, 1986, the State Police contacted the employer

8700131

and indicated that the Claimant was operating an overweight truck. In the employer's business, trucks being found overweight are expected. However, the Claimant was also arrested for driving under the influence, and the State Police would not permit the Claimant to drive. The employer sent other drivers to pick up both the Claimant and the truck.

Under company policy, the Claimant was terminated for the DWI infraction. The employer does not wait until a conviction because of insurance problems and the fact that the conviction may be a long time in coming.

The Claimant is still unemployed and has not been tried for the DWI as of the date of the hearing, February 18, 1987.

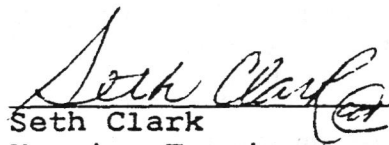
#### CONCLUSIONS OF LAW

Gross misconduct is defined as conduct which is a deliberate and willful disregard of the standards of behavior which an employer has a right to expect, showing a gross indifference to the employer's interest. Here, the Claimant demonstrated his disregard of the employer's standards of behavior by operating a company vehicle while under the influence of alcohol. Even though the Claimant has not been tried for this offense as yet, the State Police would not permit him to operate the truck in his condition. Under the circumstances, it must be found that he was discharged for gross misconduct connected with the work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. Therefore, the determination of the Claims Examiner will be affirmed.

#### 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 November 2, 1986 and until the Claimant becomes reemployed and earns at least ten times his weekly benefit amount (\$1770) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is affirmed.

  
Seth Clark  
Hearing Examiner