

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT



BOARD OF APPEALS

Thomas W. Keech
Chairman

Hazel A. Warnick
Associate Member

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

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Decision No.: 681-BR-8
Date: October 5, 1987
Appeal No.: 8702279
S. S. No.:
L.O. NO.: 45
Appellant: CLAIMANT

Claimant: Bennett Cook
Employer: Family Floors, Inc.

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.

November 4, 1987

THE PERIOD FOR FILLING AN APPEAL EXPIRES AT MIDNIGHT ON

— 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 finds as a fact that the claimant was discharged because, at a meeting with the owner, the claimant's immediate supervisor stated that he could not work with the claimant. The Board also finds as a fact that the claimant had refused two sudden last-minute orders on the part of her immediate supervisor that she work on two particular Saturdays and a Monday.

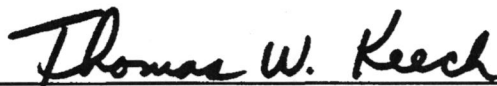
The Board concludes that the failure to work the two Saturdays and the Monday was not misconduct because: 1) the claimant was never informed that the person who gave her the order was her immediate supervisor; 2) the claimant was not told when hired that she would have to work on Saturdays or this shift on a Monday; 3) the claimant was willing to work Saturdays, given adequate notice; 4) the claimant, on these particular Saturdays and this Monday, had made serious personal commitments which could not be broken at the last minute.

Since the claimant's refusal to work on the two Saturdays was not unreasonable, the manager's refusing to work with her as a result was not caused by any misconduct on her part. The claimant, therefore, was discharged, but not for misconduct.

DECISION

The claimant was discharged, but not for gross misconduct or misconduct, connected with the work, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon her separation from employment with Family Floors, Inc. The claimant may contact the local office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

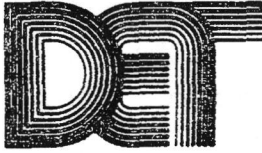
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COPIES MAILED TO:
CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - NORTHWEST



DEPARTMENT OF EMPLOYMENT AND TRAINING

**STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201**

STATE OF MARYLAND
William Donald Schaefer
Governor

(301) 383-5040

R E M A N D

— DECISION —

BOARD OF APPEALS
THOMAS W. KEECH
Chairman

Date: Mailed 7/8/87

Claimant: Bennett Cook

Appeal No.: 8702279

S. S. No.:

Employment: Family Floors, Incorporated

L.O. No.: 45

Appellant: Claimant

Issue: Whether the claimant was discharged for misconduct connected with the work within the meaning of 6(c) 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 21207, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON **July 23, 1987**

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present

NOT REPRESENTED

This case was remanded to the undersigned Hearing Examiner for a new decision without a new hearing by order of the Board of Appeals dated May 22, 1987. The Hearing Examiner was requested to make additional Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

The claimant was employed by Family Floors, Incorporated from March 6, 1986 until January 5, 1987 as a Salesperson. The claimant's salary was \$250.00 per week.

The claimant was employed as a salesperson in the employer's Columbia store. Two people, a manager and the claimant, were

employed at that location. The claimant originally worked Monday through Friday from 10 a.m. to 6 p.m. The owner told the claimant that she would have to work on Saturdays and the store manager scheduled her to work two Saturdays in November, 1986. The claimant worked one of those Saturdays, and because of the wedding of another employee, indicated to the store manager that she would only work until 4 p.m. instead of 6 p.m. This upset the store manager manager never talked to the claimant again.

When the claimant returned after Christmas vacation, she saw that she was scheduled to work Saturday, January 3, 1987, and Monday, January 5, 1987. She told the manager that she could not work those two days, because she out-of-town guests. The manager then indicated to the claimant that she was fired, and the claimant, in turn, told the store manager that he did not have the authority to fire her. She called a vice president who said, "if the store manager gets upset again, just walk out."

Because of these incidents, the owner called both the claimant and the store manager into his office on January 5, 1987. He told them to work things out. The store manager indicated that he could not work with the claimant and since both the claimant and the store manager could not work things out as requested by the employer, both were terminated. However, the employer later relented, and hired back the store manager.

The claimant is still unemployed.

CONCLUSIONS OF LAW

The term "misconduct," as used in the Statute, means a transgression of some established rule or policy of the employer, the commission of a forbidden act, a dereliction from duty, or a course of wrongful conduct committed by an employee, within the scope of her employment relationship, during hours of employment or on the employer's premises. It is concluded from the evidence presented at the appeals hearing that the claimant's behavior amounts to misconduct within the meaning of Section 6 (c) of the Law. An employer has the right to expect his workers to report to work regularly, on time, and as scheduled, and the claimant, for one reason or another, was not available for work on scheduled Saturdays. The employer told the claimant she would have to work on Saturdays, and the claimant's problems with the store manager arose from these scheduled Saturdays and could not be resolved between them. Therefore, the determination of the Claims Examiner under Section 6 (c) of the Law, will be affirmed.

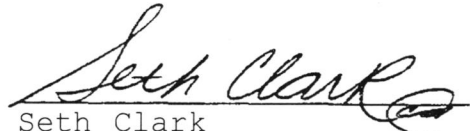
DECISION

The claimant was discharged for misconduct connected with the work within the meaning of Section 6 (c) of the Law. Benefits are denied for the week beginning January 4, 1987 and the four immediately following.

The determination of the Claims Examiner is affirmed.

This decision replaces the decision previously issued in this case on April 6, 1987.

"THE EMPLOYER SENT A LETTER TO THE HEARING EXAMINER WHICH WAS DELIVERED AFTER THE HEARING HAD BEEN CONDUCTED. THE INFORMATION CONTAINED IN THAT LETTER WAS NOT USED IN THE ORIGINAL DECISION, NOR THE REMANDED DECISION."


Seth Clark
HEARING EXAMINER.

DATE OF HEARING - 3/24/87
cd
1406/Holcomb

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Claimant
Employer
Unemployment Insurance - Northwest (Pre-MABS)

Board of Appeals