



# 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.: 700-BR-89

Date: August 21, 1989

Claimant: Anthony Jones

Appeal No.: 8906853

S. S. No.:

Employer: Allstate Bldg. Supply Co.,  
Inc.  
c/o Unemployment Tax Serv.

L.O. No.: 1

Appellant: EMPLOYER

Issue:

Whether the claimant was discharged for gross misconduct or misconduct, connected with his 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, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

September 20, 1989

THE PERIOD FOR FILING 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 adopts the findings of fact of the Hearing Examiner. However,

the Board finds that these facts are sufficient to warrant a finding of gross misconduct within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law.

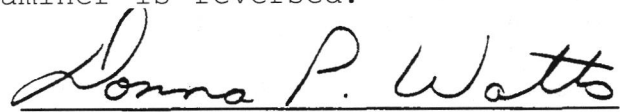
Gross misconduct is defined in Section 6(b) as conduct of an employee which is (1) a deliberate and willful disregard of standards of behavior, which his employer has a right to expect, showing a gross indifference to the employer's interest, or (2) a series of repeated violations of employment rules proving that the employee has regularly and wantonly disregarded his obligations.

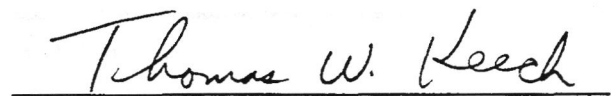
After having some expensive mishaps with the employer's equipment, the claimant should have been aware of the dangers involved and should have adjusted his work behavior accordingly. He was specifically warned to post someone to watch whenever he backed the truck. He failed to do so, and as a result he caused another incident of property damage. In the last incident, the claimant overturned the truck during what should have been a normal road maneuver. His excuse, that the brakes were not working, was not valid, and the Board concludes that the incident was due to his negligent driving. The claimant's repeated negligence and disregard of employer safety rules demonstrated a regular and wanton disregard of his obligations. This meets the definition of gross misconduct.

#### 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 January 29, 1989 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 Hearing Examiner is reversed.

  
\_\_\_\_\_  
Associate Member

  
\_\_\_\_\_  
Chairman

DW:K  
kbm  
COPIES MAILED TO:

CLAIMANT  
EMPLOYER  
UNEMPLOYMENT INSURANCE - BALTIMORE

 **Maryland**  
Department of Economic &  
Employment Development

Governor  
J. Randall Evans  
Secretary

1100 North Eutaw Street  
Baltimore, Maryland  
21201

(301) 333-5040

— DECISION —

Claimant: Anthony B. Jones  
Date: Mailed: 6/30/89  
Appeal No.: 8906853  
S.S. No.: 217-54-4575  
Employer: Allstate Bldg. Supply Co., L.O.No.: 001  
Appellant: Employer  
Issue: Whether the claimant was discharged for misconduct connected with the work, within the meaning of Section 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 AT ANY EMPLOYMENT SECURITY OFFICE OR WITH THE APPEALS DIVISION, **ROOM 515**, 1100 NORTH EUTAW STREET BALTIMORE MARYLAND, 21201, EITHER IN PERSON OR BY MAIL.

July 17, 1989

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

---

— APPEARANCES —

FOR THE CLAIMANT:

Anthony B. Jones - Present

FOR THE EMPLOYER:

James Kelly,  
General Manager

FINDINGS OF FACT

The employer sells building supplies. From January of 1986 until January 31, 1989, the claimant drove a truck with a boom for loading and unloading supplies and merchandise.

The claimant was discharged after a series of accidents:

On March 7, hydraulic fluid from a leaking hose" squirted onto merchandise. The hose started to leak after the merchandise had been hoisted into the air. This was an accident and does not constitute misconduct.

On August 4, he backed into a customer's truck, this was an accident, also. Shortly thereafter, Mr. Kelly published a new policy that required that either the driver get out and look or have his helpers spot for him while backing.

On October 14, the claimant lost control of a boom, during stormy, windy weather. This was purely an accident and misjudgements and does not constitute misconduct.

On October 17, merchandise slid off as it was being hoisted and damaged a scaffold. This too was an accident and not misconduct.

On January 18, he backed into a brick column at a construction site. He did not get out and look and did not put his helper out to look. This was a violation of the employer's recently published policy and was misconduct.

On January 31, the claimant lost control of a truck while exiting off an interstate. This was caused by bad brakes, which he had complained about on several occasions. Four out of six of his brakes were not working properly. This was an accident and does not constitute misconduct.

#### 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 his employment relationship, during hours of employment or on the employer's premises. (See Rogers v. Radio Shack 271 Md. 126, 314 A.2d 113).

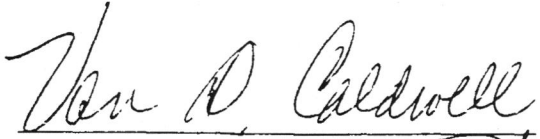

After the claimant's first accident, all employees had been instructed to either get out and look for themselves or have a helper spot for them while backing. The claimant did not do this, and he is, therefore, guilty of misconduct.

#### DECISION

The determination of the Claims Examiner is affirmed.

The claimant was discharged for misconduct within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law.

Benefits are denied from the week beginning January 29, 1989 and for the nine weeks ending April 8, 1989.

  
Van D. Caldwell  
Hearing Examiner 

Date of Hearing: 6/22/89  
rch/Specialist ID: 01037  
Cassette Number: 5197 Dic  
Copies mailed on 6/30/89 to:

Claimant  
Employer  
Unemployment Insurance - Baltimore (MABs)