



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.:	722-BR-91	
	Date:	June 17, 1991	
Claimant:	Mary A. Allen	Appeal No.:	9103225
		S. S. No.:	
Employer:	Dept. of Transit & Traffic	L. O. No.:	45
		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 MAYBE 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON July 17, 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 claimant applied for a position as a Parking Control Agent I. On her application, she indicated that she did have a criminal conviction. There is no evidence that she falsified her application.

The claimant was employed on September 13, 1990. This employment was provisional. The employer reserved the right to have the claimant's background checked and to give the Police Department a veto over her hiring. Based on the background check, the Police Department vetoed her employment and refused to commission her as a Parking Control Agent I. The employer was then required to discharge the claimant, and it did so on January 16, 1991.

Based on the above facts, the Board concludes that the claimant was discharged, but not for any misconduct in connection with her work. There is no evidence that she falsified her application. There is no evidence as to exactly why the police refused to commission her, but it is virtually certain that it was not for any actions that occurred after her first day of employment.

The claimant may have been unsuitable for the job, but there is no evidence that she committed any misconduct connected with the work. The employer simply decided, four months after she began work, that she did not meet its minimum hiring standards for that classification.

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 the claimant's separation from employment with the Department of Transit and Traffic.

The decision of the Hearing Examiner is reversed.

Thomas W. Keech

Chairman

David A. Wankel

Associate Member

K:H
kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - NORTHWEST

 **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 —

Claimant:	Mary A. Allen	Date:	Mailed 4/24/91
		Appeal No.:	9103225
		S. S. No.:	
Employer:	Department of Transit & Traffic	L.O.No.:	45
		Appellant:	EMPLOYER

Issue: Whether the claimant was discharged for gross misconduct connected with the work under Section 6 (b) of the Law. Whether the appealing party filed a timely appeal or had good cause for an appeal filed late, within the meaning of Section 7(c)(3) 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.

May 9, 1991

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

NOT PRESENT

FOR THE EMPLOYER

Represented by
Shirley Norris; and
Annie George,
Parking Control
Supervisor II

FINDINGS OF FACT

The claimant was employed as a Parking Control Agent I with the

Baltimore City Department of Transit and Traffic from September 13, 1990 to January 16, 1991. The claimant was paid an annual salary of \$16,489.00.

A hearing notice was mailed to the parties which indicated that the appeal deadline for filing an appeal was February 22, 1991. By letter dated February 21, 1991, an appeal was noted on behalf of the employer. The envelope containing the appeal is postmarked February 22, 1991.

The case was originally scheduled for March 15, 1991 in the Baltimore Office. However, the claimant reported to the Northwest Office and, therefore, the case was rescheduled for hearing on April 15, 1991. The employer, Department of Transit and Traffic, did appear at the originally scheduled hearing on March 15, 1991.

When the claimant was hired with the Department of Transit and Traffic, she was placed on probation and it was under the condition that an investigation would be conducted by Baltimore City Police Department and that any criminal convictions which come to light may result in her termination. This stipulation is made known to the applicants on the specification announcement and the civil service application.

The claimant indicated on her civil service application that she had been convicted of theft prior to 1987.

Upon completion of investigation by the Baltimore City Police, it was determined that the Police Department could not commission the claimant to serve as a Parking Control Agent I. This decision can be appealed by the claimant. If the claimant is able to get her record expunged, and the Department agrees to certify the claimant perhaps she could be re-employed in the future.

CONCLUSIONS OF LAW

The employer filed an appeal by letter dated February 21, 1991, prior to the appeal deadline of February 22, 1991. The date on the envelope containing the letter of the appeal is determinative. This date was February 22, 1991. The appeal is timely.

The employer, the appellant, was present at the original hearing scheduled for March 15, 1991. It was due to the fact that the claimant had reported to the wrong local office that the hearing was not held on that date. This fact constitutes good cause under COMAR 24.02.06.02(N).

The claimant was made aware as the condition of her employment that a background check would be conducted and that a

conviction of a crime could make her ineligible for the position of Parking Control Agent I.

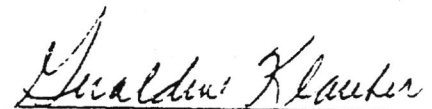
On the Police Department's determination that the claimant could not be certified to fill this position, such conduct constitutes gross misconduct within the meaning of Section 6 (b) of the Law.

DECISION

The employer/appellant filed a timely appeal within the meaning of Section 7 (c)(3) of the Law. It is further held that there was good cause to reopen this dismissed case under COMAR 24.02.06.02(N).

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 January 13, 1991 and until she becomes re-employed, earns at least ten times her weekly benefit amount (\$980), and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is reversed.


Geraldine Klauber
Hearing Examiner

Date of Hearing: 4/15/91
cd/Cassette #3894
Specialist ID: 45540

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Claimant
Employer
Unemployment Insurance - Northwest (MABS)