



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.:	779-BH-90
Date:	August 8 , 1990
Claimant: Brian W. Price	Appeal No.: 8914523
	S. S. No.:
Employer: Automatic Security Systems, Inc. ATTN : James Paquette, Pres.	L O. No.: 22
	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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

September 7 , 1990

— APPEARANCES —

FOR THE CLAIMANT:

Claimant not present

FOR THE EMPLOYER:

James Paquette,
President

EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. 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 was employed from March 16, 1988 as an alarm installer. As a condition of employment, the claimant was required to receive prior approval for any side jobs he did similar to the type of work he did for this employer.

In violation of this prior approval requirement, the claimant did numerous jobs for customers of the employer. These jobs included installation of low voltage communication and sound systems. The claimant would do work for the employer's customers and then go back and sell additional services to the customer that were the same work done by his employer. The acts of the claimant were in direct competition with his employer.

CONCLUSIONS OF LAW

Article 95(A), Section 6(b), provides for a disqualification from benefits where an employee is discharged for actions which constitute (1) a deliberate and willful disregard of standards which the employer has the right to expect; or (2) a series of violations of employment rules which demonstrate a regular and wanton disregard of the employee's obligations to the employer. The facts of this case establish that the claimant committed deliberate and willful acts which disregarded the standards of behavior his employer had a right to expect. The claimant was fully aware of the fact that he was required to receive prior approval from his employer to do any outside jobs that were in direct competition with the employer's line of business. These acts warrant a finding of gross misconduct.

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. The claimant is disqualified from receiving benefits from the week beginning October 15, 1989 until such time as he earns ten times his weekly benefit amount (\$2,050), and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.

Jonna P. Watts
Associate Member

Aysel O. Warrick
Associate Member

Thomas W. Keesh
Chairman

DW:W:K

kbm

Date of Hearing: March 27, 1990

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Automatic Security Systems, Inc.

UNEMPLOYMENT INSURANCE - BEL AIR



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: December 20, 1989

Claimant: Brian W. Price
Appeal No.: 8914523

S. S. No.:

Employer: Automatic Security Systems, Inc.
LO. No.: 22

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 January 4, 1990

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Brian W. Price - Claimant

Not Represented

FINDINGS OF FACT

The claimant was employed on March 16, 1988 as a alarm installer. His hours were from 8 a.m. to 4:30 p.m. The wife of the employer was also employed as a bookkeeper at the place of business. In addition to his work for the employer, the claimant also did some electrical work on his own time. This was not in competition with his employer and was after hours and on weekends.

The employer became convinced that there was a romantic relationship between the claimant and the employer's wife. Whatever relationship there was it caused no disruption in the business. On October 13, 1989, the employer discharged the claimant stating he "couldn't have you working there seeing his wife" .

CONCLUSIONS OF LAW

Article 95A, Section 6(b) provides for a disqualification from benefits where an employee is discharged for actions which constitute (1) a deliberate and willful disregard of standards which the employer has a right to expect or (2) a series of violations of employment rules which demonstrate a regular and wanton disregard of the employee's obligations to the employer. The preponderance of the credible evidence in the instant case will support a conclusion that the claimant's actions do not rise to the level of gross misconduct within the meaning of the Statute.

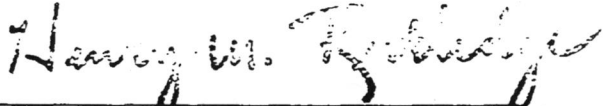
In a discharge situation the employer bears the burden of proof to show gross misconduct or misconduct. The proof here is insufficient to show that the claimant was disloyal or in competition with his employer.

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 on his separation from his employment with Automatic Security Systems, Inc. The claimant may contact the local office about the other eligibility requirements of the Law.

The determination of the Claims Examiner is reversed.


Henry M. Rutledge
Hearing Examiner

Date of Hearing: December 12, 1989

bch/Specialist ID: 22141

Cassette No: 10482

Copies mailed on December 20, 1989 to:

Claimant

Employer

Unemployment Insurance - Bel Air (MABS)