

# Maryland

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DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

**BOARD OF APPEALS**

Thomas W. Keech  
Chairman

Hazel A. Warnick  
Associate Member

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Baltimore, Maryland 21201  
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William Donald Schafer, Governor  
J. Randall Evans, Secretary

Decision No.: 780-BH-87  
Date: November 4, 1987  
Appeal No.: 8704143  
S. S. No.:  
L.O. No.: 40  
Appellant: EMPLOYER

Claimant: Edward Schisler

Employer: E. C. Decker Service, Inc.  
ATTN: Edward C. Decker, Pres.

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.

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— 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.

December 4, 1987

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

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— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Edward Decker,  
President;  
Mike Decker,  
Secretary

## 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.

The claimant was present and testified at the hearing before the Hearing Examiner. The employer was not present at that hearing, and the Hearing Examiner found facts based on the claimant's testimony. However, the Board found the claimant's testimony at that hearing to be inherently not credible. At the hearing before the Board, the claimant failed to appear but the employer appeared and presented very credible testimony about the circumstances that led to the claimant's dismissal. The Board has based its findings of fact and conclusions of law on the employer's testimony.

## FINDINGS OF FACT

The claimant was employed as an oil burner mechanic by E. C. Decker Services, Inc., from August of 1986 until approximately February, 1987, when he was discharged. The claimant's job involved servicing oil burners in customer's homes. At first he performed these duties satisfactorily. However, after a short time, the employer began receiving complaints from customers that the claimant was failing to perform the service, was showing up drunk and reeking of alcohol at the customer's homes, displaying a bad attitude and using obscene language. The employer discussed these complaints with the claimant and gave him many opportunities to improve his performance, but the customer complaints kept increasing. One customer called the employer towards the end, very upset, and absolutely refused to allow the claimant into her home because he was drunk, reeking of alcohol, and had used an obscenity. This was the final straw, and the claimant was discharged.

The employer had received a total of at least six complaints regarding the claimant's attitude, and had given him more than one warning and several opportunities to improve his performance, but he did not do so. Contrary to what the Hearing Examiner found, there is no lifting involved in the claimant's job, and his ability to lift did not enter into the decision to discharge him in any way.

CONCLUSIONS OF LAW

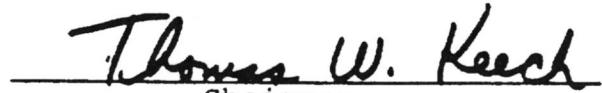
The Board concludes that the claimant was discharged for gross misconduct, connected with his work, within the meaning of Section 6(a) of the law. The claimant's outrageous behavior in customers' homes clearly shows a deliberate and willful disregard of standards of behavior which his employer had a right to expect, showing a gross indifference to the employer's interest, as well as constituting a series of repeated violations of employment rules, proving that he regularly and wantonly disregarded his obligations. Therefore, under either definition of gross misconduct, the claimant should be disqualified.

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 February 22, 1987 and until he becomes reemployed, earns ten times his weekly benefit amount (\$1,870) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.

  
Associate Member

  
Chairman

W:K

kbm

Date of Hearing: September 29, 1987

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CLAIMANT

EMPLOYER

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