



STATE OF MARYLAND
HARRY HUGHES
Governor

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Secretary

DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: 383-5032

BOARD OF APPEALS
THOMAS W. KEECH
Chairman
HAZEL A. WARNICK
MAURICE E. DILL
Associate Members
SEVERN E. LANIER
Appeals Counsel

—DECISION—

DECISION NO.: 819-BR-83
DATE: July 5, 1983
CLAIMANT: Stephen Faudree
APPEAL NO.: 02345
S.S.NO.:
EMPLOYER: C. M. Anderson's Crane Service Co., Inc. 8
ATTN: Betty J. Anderson
APPELLANT: EMPLOYER

ISSUE Whether the Claimant was discharged for gross misconduct, connected with the work, within the meaning of § 6(b) of the Law; and whether the Claimant was discharged for misconduct, connected with the work, within the meaning of § 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT August 4, 1983

— APPEARANCE —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon a review of the record in this case, the Board of Appeals reverses the decision of the Appeals Referee.

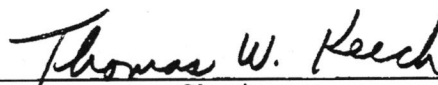
The Employer in this case sought to hire an experienced crane operator to handle obviously dangerous equipment. The Claimant represented himself as an experienced, competent operator, but he could not even properly shift gears on the crane. On one occasion, he caught a co-employee's hand in the cable. These problems were due to the fact that the Claimant was actually incompetent to handle the crane. The Claimant knew or should have known that he was not capable of handling this crane. The Employer would not have hired the Claimant had he known the Claimant couldn't perform the job.

Misleading the Employer about his ability to perform this dangerous job is conduct showing a deliberate and willful disregard of the standards of behavior which the Employer had a right-to expect and showed gross indifference to the Employer's interest. This is gross misconduct within the meaning of § 6(b) of the Maryland Unemployment Insurance Law.

DECISION

The Claimant was discharged for gross misconduct, connected with the work, Within the meaning of § 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning January 23, 1983, and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$990.00) and thereafter becomes unemployed through no fault of his own.

The decision of the Appeals Referee is reversed.



Chairman



Associate Member

K:W
dp

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - ANNAPOLIS



DEPARTMENT OF HUMAN RESOURCES
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 Appeals Counsel
 MARK R. WOLF
 Administrative
 Hearings Examiner

- DECISION -

CLAIMANT: Stephen Faudree

DATE: March 24, 1983

APPEAL NO.: 02345-EP

S. S. NO.:

EMPLOYER: C. M. Anderson

L. O. NO.: 8

APPELLANT: Employer

ISSUE: Whether the claimant is subject to a disqualification of benefits 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 IN ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 212131, EITHER IN PERSON OR BY MAIL.

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

April 8, 1983

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Stephen Faudree - Claimant

Betty Anderson -
 Owner

FINDINGS OF FACT

The claimant had filed an original claim for benefits, effective December 12, 1982. The Local Office Claims Examiner allowed benefits to the claimant on the ground that the claimant failed to meet the employer's work standards. To this determination, the employer filed an appeal.

The claimant was employed by C. M. Anderson, Queenstown, Maryland from January 10. 1983 to January 28. 1983 as a crane operator at \$8.00 an hour. It has been eight years since the claimant operated a crane, and it took time for him to get back into the operating procedure and into coordination. The claimant was not performing the job to the employer's standards, but had done nothing wrong on the job that could be termed as misconduct.

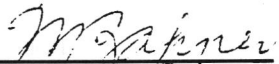
CONCLUSIONS OF LAW

The evidence is insufficient to hold that the claimant was separated from the employment for a disqualifying reason under Section 6(c) or Section 6(b) of the Maryland Unemployment Insurance Law. The determination of the Claims Examiner which allowed benefits to the claimant shall be affirmed.

DECISION

The claimant was discharged, but not for gross misconduct or misconduct connected with the work within the meaning of Section 6(b) or Section 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed, based on his separation from employment with C. M. Anderson. The claimant may contact his Local Office concerning the other eligibility requirements of the Law.

The determination of the Claims Examiner is affirmed.



M. Zahner
Appeals Referee

Date of hearing: 3/14/83

amp/7294

(Simms)

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Copies mailed to:

Claimant

Employer

Unemployment insurance - Annapolis