

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT



BOARD OF APPEALS

Thomas W. Keech
Chairman

Hazel A. Warnick
Associate Member

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Decision No.: 829-BR-87
Date: Nov. 24, 1987
Claimant: Roy O. Sather Appeal No.: 8706531
S. S. No.:
Employer: LO. No.: 50
Appellant: CLAIMANT

Issue: Whether the claimant is able to work, available for work and actively seeking work within the meaning of Section 4(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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON December 24, 1987

—APPEARANCES—

FOR THE CLAIMANT

FOR THE EMPLOYER:

REVIEW ON THE RECORD

The Board of Appeals, in considering the claimant's appeal of the decision that he was not meeting the requirements of Section 4(c) of the law, gave the claimant an opportunity to

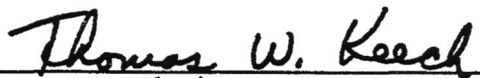
prove that his training program was approved by the Secretary within the meaning of Section 4(c). The claimant responded by sending some materials directly to the Board of Appeals. The Board, as it stated in its letter, has no authority to approve training programs under Section 4(c) of the law. On October 27, 1987, the Board referred the claimant's material to the Assistant Unemployment Insurance Director. On November 13, 1987, the Department of Economic and Employment Development issued a formal approval of the claimant's training program. Copies of this approval are attached to this decision.

Since the claimant "is in training with the approval of the Secretary" within the meaning of Section 4(c) of the law, the availability provisions of that subsection do not apply to his claim. No disqualification under that section of the law is, therefore, appropriate, and the Hearing Examiner's decision in case number 8706531 will be reversed.

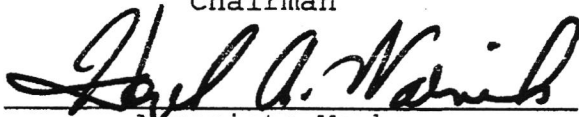
DECISION

The claimant was in training with the approval of the Secretary within the meaning of Section 4(c) of the law. No disqualification is imposed based upon that section of that law for the period between May 1, 1987 and November 9, 1987.

The decision of the Hearing Examiner is reversed.



Chairman



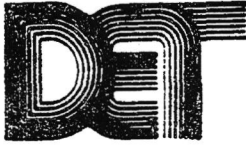
Associate Member

K:W
kbm
COPIES MAILED TO:

CLAIMANT

Robert E. Paul, Esq.

OUT-OF-STATE CLAIMS
Allen Berman, Assistant U. I. Director



DEPARTMENT OF EMPLOYMENT AND TRAINING

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STATE OF MARYLAND
William Donald Schaefer

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WERNICK

Associate Member

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Date: Mailed August 18, 1987

Claimant: Roy O. Sather

Appeal No.: 8706530, 8706531

S.S. NO.:

Employer: Baltimore Federal Savings

L.O. NO.: 50

Appellant: Claimant

Issue:

Whether the Claimant was discharged for misconduct connected with the work within the meaning of Section 6 (b) of the Law. Whether the Claimant is able, available and actively seeking work under Section 4 (c) 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 EMPLOYMENT SECURITY OFFICE, 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON September 2, 1987

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present
Robert E. Paul, Esq.

Pat Lewis, Supr.;
Ann Lichtfuss, Dir.
of Human Resources;

Other: Linda Banks, local office

FINDINGS OF FACT

The Claimant has a benefit year effective April 12, 1987. He was last employed with Baltimore Federal Savings and Loan of Baltimore, Maryland, where he began on April 10, 1986. He was actually working for Bank Smith, the bank manager in Camp Springs, Maryland. He was earning \$35,000.00 per year at the time of his separation on April 14, 1987.

The testimony reveals that the Claimant was discharged from his employment for a technical violation of the employer's standard of behavior, namely calling in when absent.

The Claimant had had a verbal agreement with the previous regional manager regarding compensation or bonuses and commission. Nothing was in writing and there was a continuous battle between the Claimant and management as to what the terms of the agreement were.

This along with his normal work as a branch manager, caused the Claimant some stress.

A meeting was held with management on April 8th regarding the bonus and commission situation. The Claimant came to work on April 9th but indicated to his supervisor that he was not able to work because of stress and they agreed that he should go home. The Claimant called in Monday and again indicated that he was still not able to work. He was called in again on Tuesday with management indicating that it was essential that he come to work to get out the work product, and again he indicated that he was not able to come in. There seems to be some dispute in that management indicated that he did report to work in casual clothes on Tuesday. On Wednesday the Claimant was terminated from his employment, both because he did not come in to work and because management indicated that he gave his reason for not coming in to work as not just stress, but the fact that he did not plan to come in until the bonus situation was cleared up.

The Claimant did not present a doctor's certificate to the employer nor did the employer ever request doctor's certification from the Claimant.

The Claimant did have sick leave to cover these days.

The Claimant had been evaluated on March 3, 1987 and received an outstanding evaluation. This evaluation took place approximately one month prior to his termination.

The employer indicated that the Claimant was actually discharged because he was out two days and would not come in to handle the job. In addition, he was mad regarding the compensation and allegedly made some remarks about his employer to other employees.

The Claimant has remained unemployed from April 14, 1987 to the present. On May 1, 1987, the Claimant enrolled in a restaurant business school where he attends five days a week, eight hours a day, and will complete the course on November

3, 1987.

CONCLUSIONS OF LAW

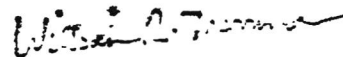
It is concluded from the testimony that the Claimant was discharged from his employment for a technical violation of failing to call his employer in case of absence. In addition, the Claimant was upset by the fact that the employer was not abiding by his understanding of the agreement for bonuses and that he was staying off from work partly due to stress and to put pressure on the employer to agree to the bonuses. The minimum disqualification will be imposed under Section 6 (c) of the Law. The determination of the Claims Examiner will be modified accordingly.

It is further concluded that the Claimant is not meeting the availability requirements of Section 4 (c) at the present time. His full time schooling is a restriction to availability and the determination of the Claims Examiner under Section 4 (c) of the law will be also modified.

DECISION

The Claimant was discharged for misconduct connected with his work, within the meaning of Section 6 (c) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits for the week beginning April 12, 1987 and four weeks (not eight weeks) immediately following. The determination of the Claims Examiner is modified to this extent.

The Claimant is not able, available and actively seeking full time work within the meaning of Section 4 (c) of the law. He is disqualified from receiving benefits for the week beginning May 3, 1987 and until he meets the requirements of the law. (Not October 31, 1987). The determination of the Claims Examiner under Section 4 (c) is modified to this extent.



William R. Merriman
Hearing Examiner

8706530
8706531

Date of Hearing: August 3, 1987
Cassette: 4198
Specialist ID: 50497
Copies Mailed on August 18, 1987 to:
 Claimant
 Employer
 Out of State Claims (MABS)
 Robert E. Paul, Esquire