

 **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.:	83-BH-92
	Date:	January 16, 1992
Claimant:	Appeal No.:	9110005
	S. S. No.:	
Employer:	L. O. No.:	9
	Appellant:	CLAIMANT
Issue:	Whether the claimant was discharged for gross misconduct or misconduct, connected with the work, within the meaning of Section 8-1002 or 8-1003 of the Labor and Employment Article.	

— 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

February 15, 1992

— APPEARANCES —

FOR THE CLAIMANT:

Sandra Eaddy - Claimant

FOR THE EMPLOYER:

Donna Gardiner -
UI Consultant
Thomas Hutchison
City Manager

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 Board finds the claimant's denials of the allegations against her to be lacking in credibility. It may be true that the claimant is not acquainted with one of the persons involved in this fraudulent scheme, but the Board believes that she did accept money in return for helping the schemers find out confidential information from the employer's contracts. The claimant even admitted that she helped one person gain access to the contracts, and that this was a person who gave her an amount of money (either \$150 or \$300, depending on which part of the claimant's testimony is believed). The claimant testified that this money was not given in return for this information, but the Board finds this testimony not credible.

FINDINGS OF FACT

The claimant was employed as a rental representative for Hertz at the Baltimore Washington International Airport. As such, she had access to completed rental contracts which disclosed customer's addresses and credit card numbers. In return for money, the claimant aided one or more persons in obtaining access to these contracts over which she had custody. Using these contracts, the schemers then perpetrated a massive fraud on American Express and other credit card companies.

CONCLUSIONS OF LAW

The claimant's conduct was a deliberate violation of standards of employment her employer had a right to expect, showing a gross indifference to her employer's interests. Selling confidential information from the employer's customers is gross misconduct in itself, even if the claimant was unaware of the scheme by which these numbers were going to be used to perpetrate a massive fraud on credit card companies. The claimant must be given the maximum penalty under Section 8-1002 of the Law.

DECISION

The claimant was discharged for gross misconduct, connected with the work, within the meaning of Section 8-1002 of the Labor and Employment Article. She is disqualified from receiving benefits from the week beginning May 5, 1991 and until she becomes reemployed, earns at least ten times her weekly benefit amount (\$1,720.00) and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is affirmed.

Thomas W. Keech

Chairman

Paul A. Ward

Associate Member

Donna P. Watts

Associate Member

K:H:D

kmb

DATE OF HEARING: December 17, 1991

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Donna Henry Gardiner

UNEMPLOYMENT INSURANCE - TOWSON

 **Maryland**
Department of Economic &
Employment Development

William Donaldson, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Starnes, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

Date:	Mailed: 8/23/91
Claimant:	Appeal No: 9110005
Sandra R. Eaddy	S.S.No.:
Employer:	L.O.No.: 009
Hertz Corporation	Appellant: Claimant
c/o James E. Frick, Inc.	

Issue: Whether the claimant was discharged for gross misconduct connected with the work, within the meaning of Section 6(b) of the Law. whether there is good cause to reopen this dismissed case, within the meaning of COMAR 24.02.06.02(N).

— 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 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

September 9, 1991

— APPEARANCES —

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Charles Brant,
Frick Company

Tom Hutcherson,
City Manager for
Hertz Corporation

FINDINGS OF FACT

This hearing was last scheduled on July 24, 1991 at 11:30 a.m.

It was dismissed when the claimant did not appear. She did not appear because she went to South Carolina to attend her uncle's funeral.

The claimant was discharged and applied for benefits. The Claims Examiner determined that she was discharged for gross misconduct and the maximum penalty was imposed. She appeals.

The employer rents automobiles.

The claimant was employed as a rental representative at Baltimore Washington International Airport.

She was discharged for selling customer credit card information to members of a credit card fraud ring.

CONCLUSIONS OF LAW

Under COMAR 24.02.06.02(N), I find that there is good cause to reopen this dismissed case. The claimant failed to attend the last hearing because she went to South Carolina to attend the funeral of an uncle.

Article 95A, Section 6(b) provides that an individual shall be disqualified from benefits where he/she is discharged from employment because of behavior which demonstrates a deliberate and willful disregard of standards which the employer has a right to expect. The preponderance of the credible evidence in the instant case will support a conclusion that the claimant was discharged for actions which meet this standard of the Law.

In gross misconduct cases, the burden the proof is on the employer. The employer carried the burden in this case. The claimant's testimony was lacking in credibility and; in fact, amounts to an admission of guilt. She did not deny selling the information but seemed to testify that it was less than the FBI claimed.

DECISION

I find good cause to reopen this dismissed case.

The claimant was discharged for gross misconduct, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. Benefits are denied from the week beginning May 5, 1991 and until she becomes re-employed and earns at least ten times her weekly benefit amount (\$1,720) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner under Section 6(b) is affirmed.

W. Van Davis Caldwell

Van D. Caldwell
Hearing Examiner

Date of Hearing: 8/20/91
ps/Specialist ID: 09655
Cassette No: 8421
Copies mailed on 8/23/91 to:

Claimant
Employer
Unemployment Insurance - Towson (MABS)