



Maryland

Department of Economic & Employment Development

*William Donald Schaefer, Governor
J. Randall Evans, Secretary*

*Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
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*Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member*

— DECISION —

Decision No.:	942-BR-91
Date:	August 2, 1991
Claimant: Cynthia Williams	Appeal No.: 9108425
	S. S. No.:
Employer: Francis Scott Key Medical Ctr. ATTN: Lawrence Simpson Employee Relations	L.O. No.: 45
	Appellant: EMPLOYER
Issue:	1
Whether the claimant was discharged for gross misconduct or misconduct, connected with her 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

September 1, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record of this case, the Board of Appeals adopts the findings of fact of the Hearing Examiner but reverses the decision.

The Board has long held that a claimant who resigns in lieu of discharge doesn't show the requisite intent to quit. Therefore, such a case is treated as a discharge, rather than a voluntary quit. Therefore, in this case, the claimant was discharged for absenteeism and tardiness.

A claimant's persistent and chronic absenteeism, where the absences are without notice or excuse, and continue in the face of warnings, constitutes gross misconduct. Watkins v. Employment Security Board, 266 Md. 225, 292 A.2d 653 (1972). In the present case, the claimant was late seventeen times and absent nine times within a year's period. As a result, the claimant received three written warnings and one suspension. She didn't dispute any of the dates other than June 4, 1990. As an excuse for the lateness, the claimant said she had problems with transportation. However, in Johnson v. Country Pride Foods, 37-BR-84, the Board specifically stated that transportation is the responsibility of the claimant, and that problems related to transportation do not excuse numerous incidents of absenteeism and lateness.

Therefore, the claimant's actions constitute gross misconduct under Section 6(b) of the Maryland Unemployment Insurance Law, and the Hearing Examiner's finding of simple misconduct is reversed.

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 April 24, 1990 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1,350) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.

Associate Member

Thomas W. Keech
Chairman

HW:K

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - NORTHWEST



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: 6/14/91
Appeal No.: 9108425
S. S. No.:
Employer: Francis Scott Key Medical Ctr. L.O. No.: 45
Appellant: Claimant

Issue: Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) 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

7/1/91

— APPEARANCES —

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

Lawrence J. Simpson,
Octavio B. Norman,
Nursing Unit Manager

FINDINGS OF FACT

The claimant resigned in lieu of discharge and applied for benefits. The Claims Examiner determined that she voluntarily quit, without good cause, or valid circumstances, and the maximum penalty was imposed. She appeals.

The claimant was employed as a Geriatric Nursing Assistant from April 25, 1990 through April 24, 1991.

During the period of her employment, she was tardy approximately seventeen times averaging fifteen to thirty minutes and absent nine times.

She received three written warnings and was once suspended.

Her attendance problems were caused by the infrequency of public transportation from Randallstown, Maryland to work. At one of her transfer points, if she missed one bus she had to wait forty minutes for another.

CONCLUSIONS OF LAW

When a claimant resigns in lieu of discharge, the issue is resolved under Section 6(b) or 6(c).

It has been held that as a condition of employment, an employer has the right to expect his workers to report to work regularly, on time, and as scheduled; and in the event of an unavoidable detainment or emergency, to receive prompt notification thereof. (See Rogers v. Radio Shack 271 Md. 126, 314 A.2d 113). Failure to meet this standard amounts to misconduct.

DECISION

The claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning April 24, 1990 and the four weeks immediately following.

The determination of the Claims Examiner is reversed.

W. Van Davis Caldwell
Van D. Caldwell
Hearing Examiner

Date of hearing: 6/10/91
rc/Cassette No: 5892
Specialist ID: 45540
Copies mailed on 6/14/91 to:

Claimant
Employer
Unemployment Insurance - Northwest - MABS