



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
HARRY HUGHES
Governor

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS
THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Decision No.: 976-BR-85

Date: October 29, 1985

Claimant: James Hicks

Appeal No.: 06112

S. S. No.:

Employer: Francis Scott Key Medical
Center
ATTN: Martin Dwyer
Personnel Dept.

L.O. No.: 1

Appellant: EMPLOYER

Issue:

Whether the claimant was discharged for misconduct, connected with his 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 ON November 28, 1985

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner.

The claimant was absent from work due to incarceration on April 10, 11, and 12, 1985. He did not call in to report his absence on these days, but he was not fired at that time. The employer learned that the claimant was due in court on April 16th and specifically advised the claimant to report back to the employer as to his ability to continue in his employment. He was not heard from at all, and on April 24th the employer began to process termination papers. The claimant was actually seen outside the workplace on April 24th and was asked to come in and speak to the employer, but he declined to do so.

The claimant clearly abandoned his job and by his actions demonstrated an intent to voluntarily quit. The claimant failed to appear to work on any date after April 9, 1985 and did not contact his employer with regard to his intentions, though the employer specifically requested that he do so.

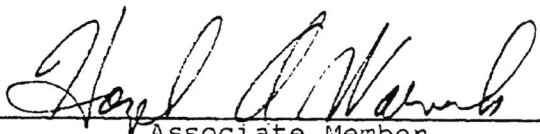
The claimant's reason for abandoning his job was that he assumed he had been terminated. This is neither "good cause" nor a "valid circumstance" as those terms are used in §6(a) of the law, since the claimant's refusal to contact his employer to find out his actual status was unreasonable.

DECISION

The unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of §6(a) of the Maryland Unemployment Insurance Law. He is disqualified from the receipt of benefits from the week beginning April 7, 1985 and until he becomes re-employed, earns at least ten times his weekly benefit amount (1,330) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.


Chairman


Associate Member

K:W

kbm

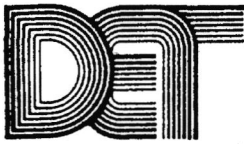
COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - BALTIMORE

EMPLOYER

The Gibbens Company, Inc.



DEPARTMENT OF EMPLOYMENT AND TRAINING

**STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201**

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BOARD OF APPEALS

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Associate Members**

**SEVERN E. LANIER
Appeals Counsel**

**MARK R. WOLF
Chief Hearing Examiner**

— DECISION —

Date: June 24, 1985
Claimant: James Hicks
Appeal No.: 06112-EP
J. S. No.:

Employer: Francis Scott Key Medical Center
L.O. No.: 01
Appellant: Employer

Issue: Whether the Claimant was discharged for misconduct connected with the work 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 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON July 9, 1985

— APPEARANCES —

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER

Grace Kilchenstein,
Gibbens Company
Martin Dwyer,
Personnel Officer
Al Mercer,
Food Service
Director

FINDINGS OF FACT

The claimant has a benefit year effective May 5, 1985. His weekly benefit amount is \$133. The claimant was employed by Francis Scott Key Medical Center, Baltimore, Maryland on June 13, 1978. He was performing duties as a Food Service Aide I at

\$12,057 per year at the time of his separation on April 9, 1985. The claimant has remained unemployed from April 9, 1985 to the present.

The testimony reveals that the claimant applied for and received a leave of absence from March 2, 1985 to April 2, 1985. He returned to work on April 3, 1985, and worked through April 9, 1985.

The claimant did not show up for work on April 10, 11, and 12, 1985, nor did he call in. The claimant was incarcerated on April 10, 1985, and in his one phone call, he asked his mother to call his employer to tell of his whereabouts. The mother did not call the employer and the employer had no idea where the claimant was until they heard rumors that he had been incarcerated.

The claimant was released from jail on April 13, 1985, and was scheduled off the following day on April 14, 1985. However, the claimant did not show up for work from April 15, through April 19, 1985. The last time the employer talked to the claimant was on April 15, at which time he had indicated that he still was having personal problems and had not made any decision as to what he was going to do. He did tell the employer at that time that he had a court appearance on April 16, 1985. He was to call back later in that week to give his position to the employer. The employer, however, did not hear from the claimant after April 15, and the claimant assumed that he had been terminated.

The employer did see the claimant outside of the building on April 24, 1985, at which time the employer told the claimant to come in and talk to him. The claimant did not show because he was again incarcerated on April 24, 1985. The claimant did not show up or give any explanation as to where he was. He was terminated on April 25, 1985.

CONCLUSIONS OF LAW

It is concluded from the testimony that the claimant was discharged from his employment for failing to keep his employer notified of his whereabouts. The claimant failed to show up for work on three days because he was incarcerated and could not contact the employer. Even after contacting the employer on April 15, 1985, and telling him that he had a court appearance scheduled for April 16, 1985, the claimant was supposed to contact his employer again during that week. He did not do so as he assumed that he had been terminated from his employment. The claimant was discharged for his failure to adhere to that standard of behavior which his employer has a right to expect. As a condition of employment, an employer has a right to expect his workers to report to work as scheduled and on time and, in the event of an emergency, to notify the employer immediately thereof. Because of the incarcerations and the court appearances and the claimant's personal problems and confusion with his employer, there are valid circumstances in this case which would warrant a finding under Section 6(c), but not 6(b) of the Law. The determination of the Claims Examiner under Section 6(c) will be affirmed.

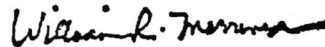
DECISION

The claimant was discharged for misconduct connected with the work within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning April 7, 1985 and the nine weeks immediately following.

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

The Employer's Protest is denied.

This denial of unemployment insurance benefits for a specified number of weeks will also result in ineligibility for Extended Benefits and Federal Supplemental Compensation (FSC), unless the claimant has been employed after the date of the disqualification.



William R. Merriman
Appeals Referee

Date of hearing: June 18, 1985
cdg/6377
(Lancaster)
Cassette #4000
Copies mailed on Juen 24, 1985 to:

Claimant
Employer
Unemployment Insurance - Baltimore

Gibbens Company, Inc.
Attn: Grace Kilchenstein