

# Maryland

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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.: 98-BR-88

Date: Feb. 3, 1988

Appeal No.: 8706355

S. S. No.: \_\_\_\_\_

Claimant: Earl Hadaway

Employer: Convention Complex  
Civil Service Commission  
ATTN: Charlie Spinner

L.O. No.: 1

Appellant: CLAIMANT

Issue: Whether the claimant was discharged for gross misconduct, connected with his work, within the meaning of Section 6(b) of the law.

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— 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.

March 4, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

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— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

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

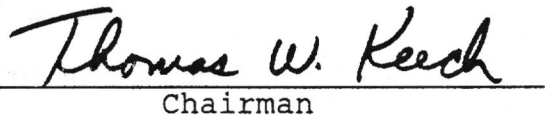
It is true, as argued by the claimant's attorney in his letter of appeal, that there is no evidence that the claimant exhibited odd or destructive behavior at work, on the night in question. However, there is substantial evidence that the claimant admitted to his employer that he consumed a controlled, dangerous substance, marijuana laced with PCP, while on his dinner break, at his home, that he also gave it to another employee, that they both returned to work shortly thereafter, and the other employee couldn't handle it and went crazy. The Board can hardly imagine a clearer demonstration of a willful and wanton disregard of standards of behavior, which the employer had a right to expect, showing a gross indifference to the employer's interest within the meaning of Section 6(b).

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 March 8, 1987 and until he becomes reemployed, earned ten times his weekly benefit amount (\$1,660) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is affirmed.

  
Associate Member

  
Chairman

W:K

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

I. William Chase, Esq.

UNEMPLOYMENT INSURANCE - BALTIMORE

was employed by the Convention Complex of Baltimore City from July 30, 1985 until March 13, 1987 as an operational aide. He was paid \$557.87 bi-weekly. The claimant, on his lunch break on March 5, 1987, left the premises and went to his home with some other workers. When they returned, he was found to be unresponsive and another workers accompanied him was acting strangely. As a result of this, an investigation was conducted and the Claimant admitted going to his home smoking marijuana laced with PCP.

The Claimant admitted this to Joe DeCarlo, Director of Security, a former police captain with 26 years experience as a policeman, and his superintendent, Jim Rich.

The employer's rule is to the effect that the use of alcohol or drugs while on the clock or reporting to work while under the influence of alcohol or drugs is strictly forbidden by the City and the Convention Center. As a result of this, the Claimant was discharged.

#### CONCLUSIONS OF LAW

In the case of Crosby v. Anderson Chevrolet, 691-BR-84, the Board of Appeals held that the Claimant's use of controlled and dangerous substances while at work which led him to exhibit odd and destructive behavior constituted gross misconduct.

In this case, the Claimant admitted to two officials that he had reported for work while under the influence of drugs for which he was discharged. This constitutes gross misconduct connected with the work within the provisions of the above captioned case. The determination of the Claims Examiner will be reversed.

#### DECISION

The Claimant was discharged for gross misconduct connected with the work within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning March 8, 1987 until he becomes re-employed and earns at least ten times his weekly benefit amount (\$1,660) and thereafter becomes unemployed through no fault of his own.

STATE OF MARYLAND  
APPEALS DIVISION  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201  
(301) 383-5040

STATE OF MARYLAND  
William Donald Schaefer  
Governor

— DECISION —

Claimant: Earl W. Hadaway  
Date: Mailed November 19, 1987  
Appeal No.: 8706355  
S.S. No.:  
Employer: Convention Complex  
c/o Personnel Tech  
L.O. No.: 01  
Appellant: Employer

Issue: Whether the Claimant was discharged for misconduct connected with his work within the meaning of Section 6(c) of the Law.

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— NOTICE OF RIGHT OF FURTHER APPEAL —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN AN EMPLOYMENT SECURITY OFFICE OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW, BALTIMORE MARYLAND, 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON December 4, 1987  
NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

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— APPEARANCES —

FOR THE CLAIMANT:

Present  
Represented by:  
I. William Chase, Esquire

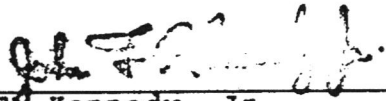
FOR THE EMPLOYER:

Charlie Spinner,  
Personnel Technician  
Supervisor  
Jim Rich,  
Superintendent  
Joe DeCarlo, Director  
of Security

FINDINGS OF FACT

The Claimant filed a claim for benefits effective May 24, 1987. His weekly benefit amount was determined to be \$156. The Claimant

The determination of the Claims Examiner is reversed.

  
\_\_\_\_\_  
John F. Kennedy, Jr.  
Hearing Examiner

Date of Hearing: October 27, 1987

Cassette:

Specialist ID: 01035

Copies Mailed on November 19, 1987 to:

Claimant

Employer

Unemployment Insurance - Baltimore (MABS)