

 **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.: 233-BR-90

Date: March 9, 1990

Appeal No.: 9000010

S. S. No.:

L. O. No.: 1

Appellant: EMPLOYER

Claimant: Kevin L. Baker

Employer: Broadway Services, Inc.
c/o Gibbens Company

Issue:

Whether the claimant was discharged for misconduct, connected with his work, within the meaning of Section 6(c) of the law; whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) 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, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

April 8, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— 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 facts of this case amount to a voluntary quit without good cause or valid circumstances as defined in Section 6(a) of the Maryland Unemployment Insurance Law.

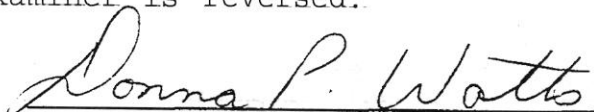
The claimant was suspended for five days after having failed to appear for work or call in for three consecutive days. The claimant was due to return to work on September 25, 1989. The claimant did not return to work on that date.

The actions of the claimant amount to a voluntary quit. The claimant had not been discharged by the employer, only suspended.

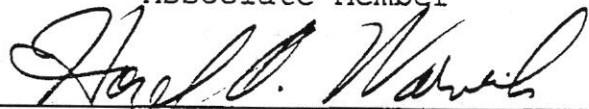
DECISION

The claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning November 5, 1989 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$870) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.



Associate Member



Associate Member

DW:W

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE

 **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

— D E C I S I O N —

Mailed: January 22, 1990

Date:

Claimant: Kevin L. Baker

Appeal NO.: 9000010

S. S. No.:

Employer: Broadway Service, Inc.
c/o Gibbens Company

LO. No.: 1

Appellant: Employer

Issue: Whether the claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) of the Law. Whether the appealing party filed a timely appeal or had good cause for an appeal filed late, within the meaning of Section 7(c)(3) 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 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

February 6, 1990

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

— A P P E A R A N C E S —

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Miss Cindy Schroeder.
Gibbens Company
Mr. Ruby McAllum,
witness - Personnel
Specialist

OTHER :

James R. Clark,
Supervisor/Manager

FINDINGS OF FACT

Late Appeal:

The last date to file an appeal was December 27, 1989. According to Agency records the appeal in this case was filed on December 29, 1989. The agency file date is the date the appeal was received. I find that the appeal was mailed on December 26, 1989 and, presumably, postmarked on the same date. Thus, I further find that the appeal was timely.

Misconduct:

From December 21, 1988 through November 10, 1989 Mr. Baker worked in housekeeping. He was discharged for missing three consecutive days without calling in. He was absent on September 15, September 16, and September 17, 1989, and on January 2, 1989, January 3, January 20, 1989, and February 10, 1989.

His absences in September were due to not having a place to live. His absences in January and February were due to lack of transportation to work.

CONCLUSIONS OF LAW

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.

The employer's representatives requested a finding of gross misconduct under Section 6(b). To find gross misconduct under Section 6(b) the evidence must show that the claimant's conduct was deliberate and willful. The evidence in this case is insufficient to support such a finding.

It will be held that the employer file a timely appeal within the meaning of Section 7(c)(3) of the Law.

DECISION

The employer's appeal is timely.

The Claims Examiner's determination under Section 6(c) is affirmed.

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 November 5, 1989 and for the nine weeks ending January 13, 1990.

Van D. Caldwell /pdd
Van D. Caldwell
Hearing Examiner

Date of Hearing: 01/16/90
pdd/Specialist ID: 01037
Cassette No: 391
Copies mailed on 01/22/90 to:

Claimant
Employer
Unemployment Insurance - Baltimore (MABS)