

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033



William Donald Schaefer, Governor
J. Randall Evans, Secretary

BOARD OF APPEALS

Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

- DECISION -

Decision No.:	891-BH-88
Date:	Sept. 28, 1988
Claimant: Robert Wolf	Appeal No.: 8802784
	S. S. No.:
Employer: Cargill, Inc. c/o Gates, McDonald	L. O. No.: 22
	Appellant: CLAIMANT

Issue: Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law; whether the claimant was discharged for gross misconduct or misconduct, connected with his 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 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.

October 28, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

- APPEARANCES -

FOR THE CLAIMANT:

Robert Wolf, Claimant
Rhonda Lipkin, Esq.

FOR THE EMPLOYER:

David Thomas, Esq.

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.

FINDINGS OF FACT

The claimant was employed by the employer as an assistant manager. At the time of his separation, the claimant had worked for the employer for 26 years.

In December of 1987, the claimant had a conversation with Robert Therwanger, the superintendent, about conditions at the terminal. These conditions were causing the claimant great concern. The claimant told Mr. Therwanger that he was considering leaving if things did not improve. The claimant and Mr. Therwanger discussed the claimant's concerns. At the conclusion of the conversation, the claimant felt that matters had been resolved and that there would be improvements. Two days later the claimant was given a letter of resignation to sign. The claimant refused to sign and never did sign the letter. The claimant attempted to contact other individuals in the company to clear up this matter. The claimant was unsuccessful and was told he no longer had a job as of December 30, 1988.

The claimant had no disciplinary actions in the three months preceding his separation.

CONCLUSIONS OF LAW

To disqualify a claimant from benefits, the evidence must establish that the claimant, by his or her own choice, intentionally, of his or her own free will, terminated the employment. Allen v. C.O.R.E. Target City Youth Program, 275 Md. 69, 338 A.2d 237 1975.

The Board of Appeals finds that the claimant's statement that he was considering leaving if things did not improve was not intended as a statement of resignation. This is further substantiated by the claimant's testimony that when the conversation was concluded with Mr. Therwanger his concerns were resolved, and the fact that he refused, two days later, to sign a letter of resignation.

The claimant was discharged by the employer. There is no evidence of any misconduct on the part of the claimant.


DECISION

The claimant did not voluntarily quit his employment within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. The claimant was discharged from his employment with Cargill, Inc., but not for any misconduct within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon his separation from employment with Cargill, Inc. The claimant may contact his local office concerning the other eligibility requirements of the law.

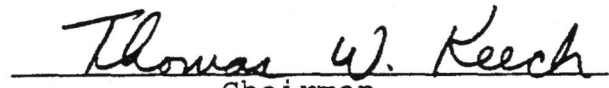
The decision of the Hearing Examiner is reversed.



Associate Member



Associate Member



Chairman

DW:W:K

kbm

Date of Hearing: August 9, 1988

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Rhonda Lipkin, Esq.
Legal Aid Bureau, Inc.

David M. Thomas, Esq.
Pfeifer & Fabian, P.A.

Cargill, Inc.
ATTN: Bobby Therwhanger

UNEMPLOYMENT INSURANCE - BEL AIR

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

STATE OF MARYLAND
William Donald Schaefer
Governor

— DECISION —

Date: Mailed May 10, 1988
Appeal No.: 8802784
S.S. No.:
Employer: Cargill, Inc. L.O.No.: 22
Appellant: Claimant
Claimant: Robert F. Wolf

Issue: Whether the Claimant was discharged for gross misconduct connected with his work within the meaning of Section 6(b) 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 May 25, 1988

NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

--- APPEARANCES ---

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER:

Bobby Therwhanger,
Superintendent

FINDINGS OF FACT

The Claimant was employed by Cargill, Incorporated. He was a terminal manager. The Claimant actually worked from November 16, 1961 until his last day of work as December 30, 1987. His pay rate was \$27,600 annually.

The Claimant was replaced as the manager and demoted to assistant manager.

The Claimant had a pinched nerve in his neck and lost time from work. He was frustrated by the way the terminal was run and told his supervisor that he wanted to leave on December 15, 1987. As a result of this, a second conversation was held between the Claimant and his supervisor, and he reiterated the fact that he wanted to leave. The employer initiated steps for his replacement, and the Claimant's last day of work was December 30, 1987. The Claimant wanted to withdraw his resignation but he had been replaced.

CONCLUSIONS OF LAW

In the case of Robert v. Tracer, Jitco. 911-BR-83 the Board of Appeals held that when a Claimant's resignation is tendered, the employer is under no obligation to disregard the resignation even where the Claimant seeks to revoke it during the notice.

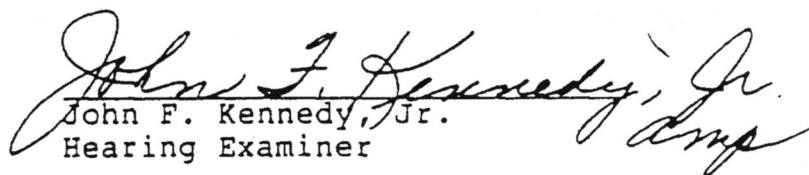
In the case of Robert v. Gorn Management, 585-BR-84 the Board of Appeals held that the Claimant's resignation due to dissatisfaction with the job where evidence shows she was treated fairly in accordance with the employer's policies which are explained (unclear) her was not for a good cause nor valid circumstances.

In this case, it is concluded that the Claimant left for personal frustrations which is a personal reason and cannot be considered to be for a good cause or valid circumstances, therefore, determination of Claims Examiner will be reversed.

DECISION

The unemployment of Claimant was due to leaving 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 December 28, 1987 and until he becomes re-employed and earns at least ten times his weekly benefit amount (\$1,950) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is reversed.


John F. Kennedy, Jr.
Hearing Examiner

Date of Hearing: April 6, 1988

Cassette: 2101

Specialist ID: 22144

Copies Mailed on May 10, 1988 to:

Claimant

Employer

Unemployment Insurance - Bel Air (MABS)