



# 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.:	1034-BR-91
	Date:	August 22, 1991
Claimant: Gale Cook	Appeal No.:	9109306
	S. S. No.:	
Employer: National Aquarium in Baltimore	L.O No.:	1
	Appellant:	CLAIMANT

Issue: 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.

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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, 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 21, 1991

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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 reverses the decision of the Hearing Examiner.

The claimant, who was a shift leader or supervisor, was fired for allegedly allowing her employees to falsify time sheets (and thus arrive late, leave early or absent themselves for long periods during the day, all while being paid for working). The claimant was also charged with doing this herself.

The employer reached this conclusion based upon an investigation by a private investigator. The investigator, however, did not testify at the hearing. The private investigator's report, if it exists, was not put in evidence at the hearing. Not a single specific example of this alleged misconduct was observed or testified to by either of the employer's witnesses, and no documents were introduced relating to any specific incident of misconduct.

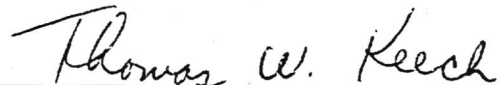
The Hearing Examiner did not make a specific finding of fact that the claimant falsified documents or allowed them to be falsified. The Board concludes that there is insufficient evidence to make such a finding. The employer has the burden of proof in a misconduct case. In this case, the employer provided nothing but conclusory statements that the claimant had engaged in a certain general type of misconduct. These statements were made by persons who had no first-hand knowledge and who provided no basis for their conclusions -- other than a report which was not entered into evidence.

The employer did not produce sufficient evidence to meet its burden of proof. No finding can be made that the claimant engaged in falsification of records.

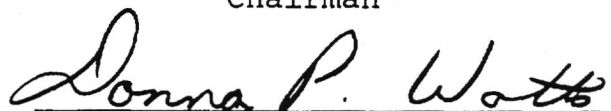
#### DECISION

The claimant was discharged, but not for any misconduct connected with her work, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based on her separation from employment with the National Aquarium in Baltimore.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

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 —**

Date:	Mailed 7/3/91		
Claimant:	Gale Cook	Appeal No.:	9109306
		S. S. No.:	
Employer:	National Aquarium in Balto	L.O. No.:	01
		Appellant:	Claimant

Issue: Whether the claimant was discharged for gross misconduct connected with the work under Section 6 (b) of the Law.

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**— 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.

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

July 18, 1991

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**— A P P E A R A N C E S —**

FOR THE CLAIMANT:

Present - accompanied Leray  
Ball, Witness

FOR THE EMPLOYER:

Represented by  
Shirley Norris,  
Personnel Tech II -  
Civil Service  
Commission; Marshall  
K. Judges, Director  
of Facilities;  
Debbie Curtis,  
Personnel Co-  
ordinator; and Jerry  
Vega, Comptroller

FINDINGS OF FACT

The claimant was employed from July 22, 1981 as a technician/skilled working at the Aquarium at a pay rate of \$17,370.00 per year gross for full-time employment. The claimant was a shift leader and as such responsible for keeping the attendance of herself and from between five to seven other employees working the same shift. The claimant was assigned to work 4 p.m. to 12:30 a.m.

on or about May 1, 1991, the claimant was discharged for falsification of time records, both for herself and for employees for whom she was responsible.

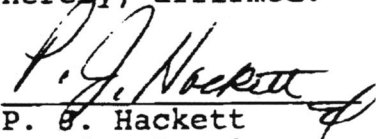
CONCLUSIONS OF LAW

It is held that the claimant was discharged for gross misconduct connected with the work within the meaning and intent of Section 6 (b) of the Maryland Unemployment Insurance Law. The determination of the Claims Examiner which denied benefits was warranted and will be affirmed.

DECISION

The claimant was discharged for gross misconduct connected with the work within the meaning of Section 6 (b) of the Law. Benefits are denied for the week beginning April 28, 1991 until re-employed, earns at least ten times her weekly benefit amount.

The determination of the Claims Examiner is, **hereby, affirmed.**

  
**P. G. Hackett**  
**Hearing Examiner**

Date of Hearing: 6/25/91  
cd/Cassette #6271B/6272A  
Specialist ID: 01062

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Claimant  
Employer  
Unemployment Insurance - Baltimore (MABS)