



Maryland

Department of Economic & Employment Development

*William Donald Schaefer, Governor
Mark L. Wasserman, Secretary*

*Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (410) 333-5032*

*Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member*

— DECISION —

	Decision No.:	1120-BR-92
	Date:	July 15, 1992
Claimant: Randy L. Gladding	Appeal No.:	9207300
	S. S. No.:	
Employer: Montgomery Ward & Co.	L. O. No.:	50
	Appellant:	CLAIMANT

Issue: Whether the claimant was discharged for misconduct, connected with the work, within the meaning of Section 8-1003 of the Labor and Employment Article.

— 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, 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

August 14, 1992

— 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 Board makes the following findings of fact. The claimant was employed for over a year as an automotive technician at \$7.92 per hour.

The claimant failed to keep accurate records of his bank account. As a result, he cashed four \$25.00 checks at the employer's courtesy desk without having the funds to back them up. The employer demanded payment. The claimant requested that the money be taken out of his check, little by little, but the employer refused. The employer then suspended the claimant until the money was paid back, and also seized his tools and toolbox until payment was made.

Meanwhile, the claimant was locked in a room at work for three hours by his co-workers.

The claimant was supposed to discuss the situation about the checks with his supervisor. He arrived one or two days late. When he did, he was told that he could not work or have his tools until the money was paid back.

The Board concludes that the claimant was discharged. A suspension from work that is for an indefinite duration, and which can be ended only upon the payment of money, and which in itself precludes the earning of a salary, and which is also accompanied by the seizure of the tools by which the employee normally earns a salary, is a discharge for purposes of the unemployment insurance law. The claimant was discharged as soon as a suspension under these circumstances was imposed on him.¹

Since the claimant was discharged, the burden is on the employer to show that the discharge was for misconduct. In this case, the claimant's admitted negligence in bouncing four checks on the employer's account amounts to ordinary misconduct under Section 8-1003 of the law. The conduct however, does not meet the more restrictive definition of gross misconduct under Section 8-1002.

DECISION

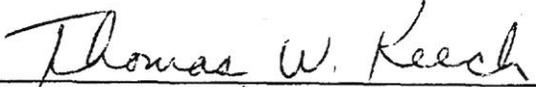
The claimant was discharged for misconduct, connected with the

¹ Even if the claimant had quit, the citation in the Hearing Examiner's decision, of the Paynter case's language about "purely personal reasons" was wholly inappropriate.

work, within the meaning of Section 8-1003 of the Labor and Employment Article. He is disqualified from receiving benefits from the week beginning October 20, 1991 and the nine weeks immediately following.

This penalty will also disqualify the claimant from receiving federal extended benefits, unless he has been employed after the date of his disqualification.

The decision of the Hearing Examiner is affirmed.


Chairman


Associate Member

K:H

kmb

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CLAIMANT

EMPLOYER

OUT-OF-STATE CLAIMS

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Gary W. Wiedel, Administrator
Louis Wm. Steinwedel, Chief Hearing Examiner

Room 501
1100 North Eutaw Street
Baltimore, Maryland 21201

— DECISION —

Date: Mailed 5/12/92

Claimant: Randy L. Gladding Appeal No.: 9207300

S. S. No.:

Employer: Montgomery Ward & Co., Inc. L.O.No.: 50

Appellant: Claimant

Issue: Whether the claimant was discharged for gross misconduct connected with the work within the meaning of MD Code, Labor and Employment Article, Title 8, Section 1002.

— NOTICE OF RIGHT OF FURTHER APPEAL —

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

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES ON

May 27, 1992

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 - via telephone

FOR THE EMPLOYER:

NOT REPRESENTED
(Not Available)

FINDINGS OF FACT

The claimant filed an initial, interstate claim for unemployment insurance benefits at or near Ionia, Michigan, effective February 2, 1992.

The claimant was last employed by Montgomery Ward & Company, Incorporated in Maryland from June 11, 1990 until October 24, 1991 as a Senior Technician in the automotive department at a pay rate of \$7.92 an hour.

The claimant left work without notice to the employer and relocated to the State of Michigan after receiving notice from the employer's main office that he had been suspended.

Two incidents occurred before the claimant was suspended. He had been locked in a storage room by three fellow employees for a period of three hours. He was very upset and angry over this. Following that incident, he had received the verbal notice that he had been suspended and he had to first see his supervisor. The claimant was very upset and angry over this and decided not to see his supervisor, which then prompted him to relocate to Michigan.

Prior to that incident, the claimant had written four \$25.00 checks which he cashed with the employer and which checks were returned for insufficient funds, causing the employer to lay out \$90.00 plus \$60.00 for returned check fees. Several days after that, he was suspended.

The claimant had made a mistake in his checkbook, and did not realize he would be overdrawn. The employer wanted him to repay the monies immediately. His next paycheck did not cover the amount due. After he was suspended, the employer seized his personal tools and informed him that these tools would not be returned unless he repaid the employer for the monies laid out as a result of his bad checks. The employer declined to work things out with the claimant by withholding small amounts from succeeding paychecks.

Being very angry and upset over this, and after being suspended, the claimant decided to relocate to Michigan.

CONCLUSIONS OF LAW

The Maryland Code, Labor and Employment Article provides that if an individual voluntarily leaves employment to relocate to another area, such is neither good cause nor a valid circumstance for voluntarily leaving work. Particularly where there is no cause directly attributable to, arising from, or connected with the conditions of employment or actions of the employer to cause claimant to give up his job. The Court of Appeals of Maryland in the case of Paynter v. Board of Education, 303 Md 22 held that purely personal reasons, no matter how compelling they may be, provide no excuse for voluntarily leaving work.

Additionally, in the instant case, the claimant was upset over being suspended after writing four bad checks, for which the employer was indebted to its bank for \$150.00, after being locked in a storage room for three hours by fellow employees, and after the employer declined to permit him to continue working to pay back the debt and seized his tools.

The claimant had the responsibility to know if he had sufficient funds in his checking account to cover checks which he wrote. The fact that the claimant made a mistake on his checkbook which resulted in four checks written to the employer being returned for insufficient funds, does not, in anyway, excuse the claimant from his responsibility to the employer. The claimant's action in presenting checks to the employer which turned out to be "bad checks" shows a deliberate and willful disregard of the standards of behavior which the employer has a right to expect, which could result in discharge for gross misconduct.

In the instant case, the claimant clearly voluntarily left the job for all the reasons cited above, in order to relocate to Michigan. Therefore, I conclude that he left his employment voluntarily, without good cause, within the meaning of the Law and without showing any "valid circumstances" as defined by the Statute, to the contrary. A "valid circumstance" is one where there is a substantial cause attributable to the employer, resulting in the claimant voluntarily leaving otherwise gainful employment, or another cause of such a necessitous and compelling nature that the individual had no reasonable alternative but to leave the job.

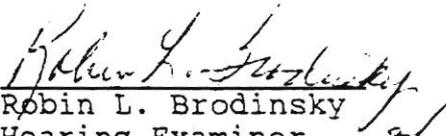
Here, it appears that the claimant was suspended as a result of the four bad checks which he passed to the employer. The claimant then voluntarily left the job when his tools were seized and after the incident of being locked in by fellow employees.

DECISION

The claimant left work voluntarily, without good cause, within the meaning of Title 8, Section 1001 of the Maryland Code, Labor and Employment Article. Benefits are denied for the week

beginning October 20, 1991, and thereafter until he becomes re-employed, earns at least ten times his weekly benefit amount (\$2040), and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner is reversed.


Robin L. Brodinsky
Hearing Examiner

Date of Hearing: 5/11/92
Specialist ID: 50503
cd/CASSETTE IN FILE

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Claimant
Employer
Out of State Claims - (MABS)