



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Board of Appeals
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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

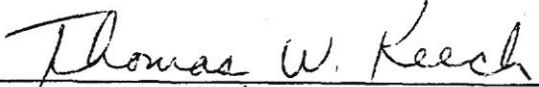
The claimant was discharged for misconduct, connected with the

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