

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
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Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

	Decision No.:	15-BR-91
	Date:	January 4, 1991
Claimant: Timothy Reed	Appeal No:	9013581
	S. S. No.:	
Employer: Saval Foods Corporation c/o ADP/UCM Dept. ATTN: Gabrielle Allen	L. O. No.:	40
	Appellant:	EMPLOYER

Issue:

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 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 AT MIDNIGHT ON

February 3, 1991

— 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 in this case had a history of problems at work due to lateness. He had been warned verbally, warned in writing and suspended for this problem. He had also been verbally counseled about the use of improper language in the employer's plant.

The incident that led immediately to the claimant's discharge occurred on August 31, 1990. At 10:00 a.m. that morning, the claimant left the employer's plant without permission in the middle of his shift. The owner of the company followed him out and told him to return to the premises. The claimant did sop and the employer took no further action about this incident.

At noon, however, the claimant sought out the owner and began to argue about the incident. The owner told him that he was willing to forget about it, as long as he didn't do it again. The claimant, however, persisted in arguing that the owner was unfair, not only on this but on numerous other matters, including the claimant's salary and allegations that the owner unfairly treated black employees. The owner told the claimant that he did not wish to engage in this conversation, but the claimant persisted in such a loud voice that his argument could be heard on another floor of the building by employees who were there. This argument was also audible to one of the owner's managers. As this continued, the owner also eventually became angry and discharged the claimant.

The Board concludes that this is gross misconduct. The claimant has a poor employment record to begin with, and he had been warned about inappropriate language in the plant. Together with his conduct on August 31, 1990, in beginning an inappropriately loud, accusatory argument with the owner, without any apparent provocation, in a setting where other employees and a supervisory person could hear, this constitutes gross misconduct. The claimant's conduct was a series of repeated violations of work rules, showing that he regularly and wantonly disregarded his obligations.

DECISION

The claimant was discharged for gross misconduct, connected with his work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning August 26, 1990 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1,410), and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.

Thomas W. Keech

Chairman

Donna P. Watts

Associate Member

K:DW

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT



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

— DECISION —

Claimant:	Timothy Reed	Date:	Mailed: 11/19/90
		Appeal No.:	9013581
		S. S. No.:	
Employer:	Saval Foods Corp. c/o ADP	L.O. No.:	40
		Claimant:	Employer

Issue: Whether the claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) 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.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON December 4, 1990

— APPEARANCES —

FOR THE CLAIMANT:

Claimant- Not Present

FOR THE EMPLOYER:

Represented by:
Jeffrey Saval, Owner
William Oeser, ADP

FINDINGS OF FACT

The claimant was employed between February 2, 1989 and August 31, 1990. He worked full-time, earning \$6.50 an hour operating a

pump machine for a food processing company.

The credible evidence indicates that the claimant was observed by Jeffrey Saval leaving the premises, without authority by a supervisor, at approximately 10:00 a.m. on the morning of August 31, 1990. Mr. Saval confronted the claimant and verbally disciplined him regarding his behavior. As far as Mr. Saval was concerned, the matter was resolved, as long as the claimant understood that he was not to go outside without permission. However, later in the day, at approximately 12:00 noon, the claimant came to the employer, and confronted Mr. Saval, beginning to argue the matter which had already been discussed at length that morning. He was trying to offer additional explanation, which the employer, at that point, was no longer interested in hearing. Thereupon, the claimant began to argue about his salary, and his sentiment that he was being treated unfairly with regard to a raise that had been made in April, 1990. Despite Mr. Saval's repeated request that the claimant cease the conversation, he continually, in a loud voice, persisted in the discussion as well as accusing Mr. Saval of being a bigoted employer. Mr. Saval invited the claimant to leave the premises after what he characterizes as a "yelling match" had began. The conversation was heard by other workers who were sitting in a near-by break room, and took place in front of four men. Finally, the claimant left as requested.

CONCLUSIONS OF LAW

Article 95A, Section 6(b) provides for a disqualification from benefits where an employee is discharged for actions which constitute (1) a deliberate and willful disregard of standards which the employer has a right to expect or (2) a series of violations of employment rules which demonstrate a regular and wanton disregard of the employee's obligations to the employer. The preponderance of the credible evidence in the instant case will support a conclusion that the claimant's actions do not rise to the level of gross misconduct within the meaning of the Statute.

The term "misconduct," as used in the Statute means a transgression of some established rule or policy of the employer, the commission of a forbidden act, a dereliction from duty, or a course of wrongful conduct committed by an employee within the scope of his employment relationship, during hours of employment or on the employer's premises. (See Rogers v. Radio Shack 271 Md. 126, 314 A.2d 113).

In the present case, the claimant's decision to depart from the employer's premises, followed by continuing to argue about a violation of a company policy, constituted a dereliction from his duty, within the meaning of Section 6(c) of the Law.

DECISION

It is held that the claimant was discharged for misconduct, connected the work within the meaning of Section 6(c) of the Law. He is disqualified from receiving benefits from the week beginning August 26, 1990 and for the nine week immediately following.

The determination of the Claims Examiner below is hereby affirmed.

Judy-Lynn Goldenberg

Judy-Lynn Goldenberg
Hearing Examiner

Date of Hearing: 11/13/90
cc/Specialist ID: 40318
Cassette No: 9190
Copies mailed on 11/19/90 to:

Claimant
Employer
Unemployment Insurance - Eastpoint (MABS)