

 **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.:	155-BR-93
Date:	January 29, 1993
Appeal No.:	9223377
S. S. No.:	
L. O. No.:	43
Appellant:	EMPLOYER

Claimant: Ira Allen

Employer: Sentinel Newspapers

Issue: Whether the claimant was discharged for misconduct, connected with the work within the meaning of §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 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.

February 28, 1993

THE PERIOD FOR FILING AN APPEAL EXPIRES

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals affirms the decision of the Hearing Examiner.

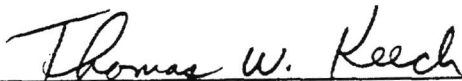
The crucial question in this case is whether the claimant quit or was discharged. There was testimony on both sides of this issue. The Hearing Examiner found the testimony of the claimant more credible on this issue. The Board rarely overturns the decision of the Hearing Examiner with regard to the credibility of the witnesses, and it will not do so in this case.

Even though a claimant is discharged in the heat of anger, the reasons for the discharge -- if they can be articulated -- should be examined to determine whether they amount to misconduct. The Board agrees that they do not amount to misconduct in this case. The claimant's allegations about ethnic slurs were withdrawn from his memorandum prior to delivery, and he apologized when the publisher found out about them anyway. Under these circumstances, the allegations become moot. It is apparent that the claimant had an acerbic method of communicating with the employer, but this does not amount to misconduct. The claimant was not performing his editorial job to the employer's satisfaction, but there is no basis for a finding that this was due to deliberate misconduct or negligence on the part of the claimant. An employer who has discharged a claimant has the burden of showing that misconduct was committed, and that burden was not met in this case.

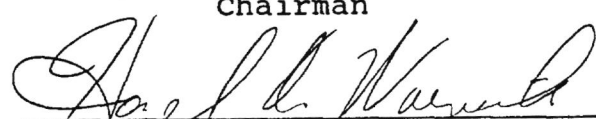
DECISION

The claimant was discharged, but not for misconduct, connected with the work, within the meaning of §8-1003 of the Labor and Employment Article. No disqualification is imposed based upon his separation from employment with the Sentinel Newspapers.

The decision of the Hearing Examiner is affirmed.



Chairman



Associate Member

K:HW
kbm
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CLAIMANT