

 **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*

C O R R E C T E D

decision is being corrected because the  
prior decision contained an extra page — **DECISION** —  
which is not part of this decision.

Decision No.:	223 -BR-91
Date:	Feb. 22, 1991
Claimant: John G. Weidman	Appeal No.: 9015743
	S. S. No.:
Employer: Village Import Cars	L O. No.: 22
	Appellant: EMPLOYER & CLAIMANT
Issue:	Whether the claimant was discharged for misconduct, connected with the work, within the meaning of Section 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 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 March 24, 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 evidence in this case was somewhat muddled, but it is clear that the claimant was less than candid on his application to the employer's insurance company, at least the first time he filled it out. However, it is equally clear and un rebutted that that was not the reason he was discharged. The employer knew for at least some time prior to the claimant's separation, while he worked there, that he did not have a Maryland's driver's license and that he had a poor driving record in Maryland. The employer made every effort to keep the claimant working, including trying to limit his driving of vehicles, despite the fact that his Maryland license had been revoked (See Employer Exhibit #1).

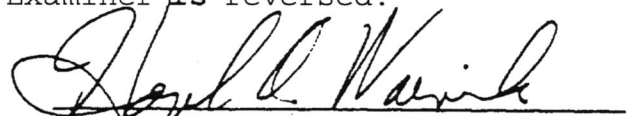
When the employer's insurance company made it clear that it would not insure the claimant for any type of work, the employer discharged the claimant but still gave him the option of coming back if he could become insured.

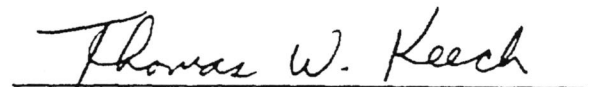
The claimant was discharged because the insurance company would no longer cover him, due to conditions that the employer knew at the time of his second hiring, was well aware of all along and had tolerated for quite some time. This is not misconduct.

#### DECISION

The claimant was discharged but not for misconduct, connected with the work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based on his separation from employment with Village Import Cars, Inc. The claimant may contact the local office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.

  
Associate Member

  
Chairman

H:K  
kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Gerald E. Askin, Esquire

UNEMPLOYMENT INSURANCE - BEL AIR



# Maryland

## Department of Economic & Employment Development

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**— DECISION —**

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FOR THE EMPLOYER:

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When the employer's insurance company made it clear that it would not insure the claimant for any type of work, the employer discharged the claimant but still gave him the option of coming back if he could become insured.

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Associate Member

  
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H:K  
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COPIES MAILED TO:

CLAIMANT

EMPLOYER

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UNEMPLOYMENT INSURANCE - BEL AIR

 **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: John G. Weidman

Date:

Mailed: 1/2/91

Appeal No.:

9015743

S. S. No.:

Employer: Village Import Cars, Inc.

L.O. No.:

22

Appellant:

Employer

Issue: Whether the claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) 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 MAYBE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE APPEALS DIVISION, ROOM515,1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL

January 17, 1991

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

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**— APPEARANCES —**

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Represented by:  
Kathy Weiner, Office  
Manager, Al Smick,  
Service Manager,  
Gerald E. Askin,  
Attorney, Working  
the ADP Company

## FINDINGS OF FACT

The claimant was employed by the Village Import Cars, Inc. on September 24, 1990. At the time of his separation from employment on October 19, 1990, he earned \$11.00 an hour as a technician.

The claimant was initially hired by the employer on October 7, 1987 and resigned. He was then rehired on January 24, 1990. When the claimant was hired in 1987, he had a West Virginia driver's license which he obtained while attending school there. The claimant's Maryland license had been revoked at the time he applied for employment in October, 1987. The claimant's employment has always required a driver's license, and the claimant was allowed to work for the employer using his West Virginia driver's license.

On September 28, 1990, the claimant completed a bond application which asked whether the claimant license had been suspended or revoked and whether the claimant had any traffic violations within the past three years. The claimant answered no to both questions. The claimant answered the questions in the negative because he had worked for the employer for three years using his West Virginia license. The claimant has not had a Maryland driver's license since 1986. The claimant still retains a West Virginia license and has no points or moving violations. The claimant was discharged because the employer's insurer would not insure the claimant because of his previous poor driving record and for falsification of his bond application.

## CONCLUSIONS OF LAW

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). The claimant answered no to a question on the employer's bond application which specifically asked whether the claimant had ever had a driver's license suspended or revoked. The question did not specifically ask whether a Maryland driver's license had been revoked. Nevertheless, the claimant was reasonable in his belief that he could answer the question no because he had worked for the employer for three years using his West Virginia driver's license which had never been revoked or suspended. The fact that the employer allowed the claimant to work for three years in a job that required a driver's license and rehired him on the basis of his possession of a West Virginia driver's



license gives credence to the claimant's belief. For this reason, the claimant's falsification of the bond application does not rise to the level of gross misconduct, within the meaning of Section 6(b) of the Law. Nevertheless, the claimant falsification was a wrongful act committed by the claimant during the course of his employment warranting a finding of misconduct, within the meaning of Section 6(c) of the Law.

DECISION

The claimant was discharged for misconduct connected with his work, within the meaning of Section 6(c) of the Law. Benefits are denied for the week beginning October 14, 1990 and the nine weeks immediately following.

The Claims Examiner's determination is affirmed.



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Sarah L. Moreland  
Hearing Examiner

Date of Hearing: 12/14/90  
cc/Specialist ID: 22152  
Cassette No: 10055  
Copies mailed on 1/2/91 to:

Claimant  
Employer  
Unemployment Insurance - Bel Air (MABS)

Gerald E. Askin, Esq.