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STATE OF MARYLAND

DEPARTMENT OF LABOR, LICENSING AND REGULATION

PARRIS N. GLENDENING, Governor

EUGENE A. CONTI, JR., Secretary

Board of Appeals

Hazel A. Warnick, Chairperson

## - DECISION -

Claimant:

SYLVESTER A. INGRAM

Decision No.: 02290-BR-96

Date: July 19, 1996

Appeal No.: 9606351

S.S. No.:

Employer:

LAUREL FITNESS & SWIM CLB INC

L.O. No.: 23

Appellant: Claimant

Issue: Whether the claimant was discharged for misconduct or gross misconduct connected with the work within the meaning of Maryland Code, Labor and Employment Article, Title 8, Section 8-1002 or 1003.

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## - NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how to file the appeal can be found in many public libraries, in the Maryland Rules of Procedure, Title 7, Chapter 200.

The period for filing an appeal expires: August 18, 1996

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### REVIEW ON THE RECORD

The Board adopts the following findings of fact and reverses the decision of the hearing examiner.



The claimant was employed as a full-time aquatics director from February 3, 1993, through January 24, 1996. He is unemployed as the result of a discharge.

The claimant was discharged from employment by the owner of the company because of complaints of alleged sexually harassing conduct. The claimant (the only witness at the hearing with first hand knowledge of the alleged events) denies all accusations.

The claimant requested of the owner to speak with the alleged victims before he made his final decision to discharge the claimant but was refused. The claimant stated to the owner that he did nothing wrong. Nevertheless, the owner discharged the claimant for sexually harassing co-workers in the workplace.

The Board considers allegations of sexual harassment in the workplace to be extremely serious in nature. While the Board is aware that the recipient of the alleged harassment may be placed in an uncomfortable or even threatening situation, the Board is equally aware that the alleged harasser's reputation and career may be placed in jeopardy. For the Board to make or adopt a finding that the claimant was engaged in the activity of sexual harassment causing a hostile work environment rising to the level of misconduct, gross misconduct, or aggravated misconduct as defined by the Maryland Unemployment Insurance Law, there must be substantial evidence to support such conclusions of law.

The Board notes that none of the witnesses or any "victim" of sexual harassment with first hand knowledge as to the claimant's actions were present at the hearing to present any sworn testimony. The Board notes that the employer's witness testified and submitted evidence which was substantially hearsay. The Board finds the employer's witness' testimony insufficient to support a finding of improper actions by the claimant.

The decision of the hearing examiner will be reversed.

#### DECISION

The claimant was discharged, but not for gross misconduct or misconduct, connected with the work, within the meaning of §8-1002 or 8-1003 of the Labor and Employment Article. No disqualification is imposed based upon his separation from employment with Laurel Fitness & Swim Club Inc.

The decision of the Hearing Examiner is reversed.



Clayton A. Mitchell, Sr., Associate Member



Hazel A. Warnick, Chairperson