

# Maryland

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DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

**BOARD OF APPEALS**

Thomas W. Keech  
Chairman

Hazel A. Warnick  
Associate Member

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033



William Donald Schaefer, Governor  
J. Randail Evans, Secretary

Decision No.: 230 - BR - 88  
Date: April 6, 1988  
Claimant: Barbara Stewart  
Appeal No.: 8708006  
S. S. No.:  
Employer: Access Enterprises  
L.O. No.: 43  
Appellant: EMPLOYER

Issue: Whether the claimant was discharged for gross misconduct or misconduct, connected with her work, within the meaning of Section 6(b) or 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 COURT OF 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 May 6, 1988

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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 affirms the decision of the Hearing Examiner.

The Board agrees with the conclusion of the Hearing Examiner that the claimant did not resign, as she did not communicate to the employer her intention of resigning at any time prior to the time that she was terminated.

The claimant's resignation letter submitted immediately thereafter is considered a resignation in lieu of termination, and the Board has long held that such a termination of employment is a discharge within the meaning of the Unemployment Insurance Law. Miller v. William T. Burnett and Co. (442-BR-82), Tressler v. Anchor Motor Freight (105-BR-83).

The Board has not considered as evidence those documents submitted with the employer's letter of appeal, as only evidence submitted at the hearing may be considered. Section 6(e) of Article 95A. Even if the evidence was considered and credited, however, it would not change the decision in this case. The communication to co-workers of an intention to resign is an entirely different matter from the communication of that intention to the employer.

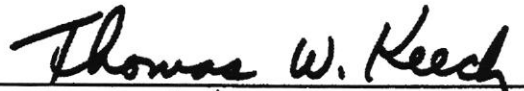
This is not to say that a resignation cannot be made verbally, see, Ludwig v. Docktor Pet Center (120-BR-85), or that somewhat ambiguous words indicating intent to resign, coupled with actions indicating such an intent, cannot be considered a resignation. Nelson v. Annapolis Housing Authority (965-BR-85). The communication cannot constitute such a resignation, however, unless it is communicated to the employer. Since the intention to resign was not communicated to the employer in this case, the Hearing Examiner correctly ruled that the claimant was discharged.

Since the claimant was discharged, the burden is on the employer to show that the discharge was for misconduct or gross misconduct under Sections 6(b) or 6(c) of the Maryland Unemployment Insurance Law. The employer clearly has not met the burden of proving misconduct in this case.

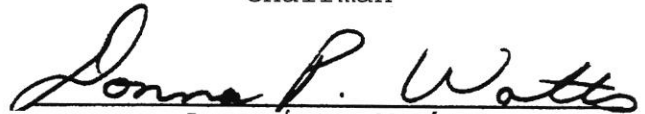
#### DECISION

The claimant was discharged, but not for gross misconduct or misconduct, connected with her work, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based on her separation from employment with Access Enterprises.

The decision of the Hearing Examiner is affirmed.



Chairman



Associate Member

K:DW

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WHEATON

STATE OF MARYLAND  
APPEALS DIVISION  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201  
(301) 383-5040

STATE OF MARYLAND  
William Donald Schaefer  
Governor

--- DECISION ---

Claimant: Barbara K. Stewart  
Date: Mailed January 11, 1988  
Appeal No: 8708006  
S.S. No.:  
Employer: Access Enterprises  
L.O. No.: 43  
Appellant: Claimant  
Issue: Whether the Claimant's unemployment was due to leaving work voluntarily, without good cause within the meaning of Section 6(a) of the Law.

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--- NOTICE OF RIGHT OF FURTHER APPEAL ---

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON January 26, 1988  
NOTICE: APPEALS FILED BY MAIL INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE THE U.S. POSTAL SERVICE POSTMARK.

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--- APPEARANCES ---

FOR THE CLAIMANT:

Present  
Stephen Klitsch  
Susan Klitsch

FOR THE EMPLOYER:

Glenn Y. Younes,  
President

FINDINGS OF FACT

The Claimant was employed by Access Enterprises from, January 1, 1986 until May 6, 1987. She was a recruiter. The Claimant was on a \$24,000.00 drawing account annually.