



DEPARTMENT OF EMPLOYMENT AND TRAINING

**BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201**

(301) 383-5032

STATE OF MARYLAND

**HARRY HUGHES
Governor**

BOARD OF APPEALS

**THOMAS W. KEECH
Chairman**

**HAZEL A. WARNICK
MAURICE E. DILL
Associate Members**

**SEVERN E. LANIER
Appeals Counsel**

**MARK R. WOLF
Chief Hearing Examiner**

— DECISION —

Decision No.: 327 -BR-86

Date: April 30, 1986

Claimant: Ulysses Francis

Appeal No.: 8513841

S. S. No.:

Employer: Dover Poultry, Inc.
ATTN: Millard Sindler, Pres.

L.O. No.: 1

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 MAYBE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT 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 30, 1986

— 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.

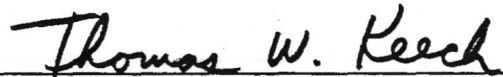
The claimant missed 32 working days between January of 1985 and his date of discharge, August 23, 1985. Normally, this number of absences would qualify as a series of repeated violations of work rules, constituting gross misconduct within the meaning of Section 6(b) of the law. The Hearing Examiner has found credible, however, the claimant's statement that most of these absences were excused by the employer. The Board is reluctant to overturn a Hearing Examiner's findings as to the credibility of a witness. For this reason, the Board will find that the claimant's absenteeism amounts to ordinary misconduct within the meaning of Section 6(c) of the law, since some of these absences were unexcused.

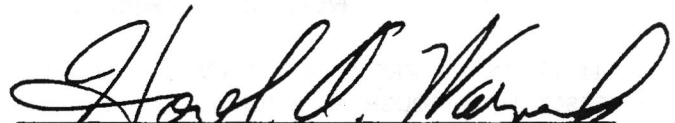
DECISION

The claimant was discharged for misconduct, connected with his work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning August 11, 1985 and the nine weeks immediately following.

The decision of the Hearing Examiner is reversed.

This denial of unemployment insurance benefits for a specified number of weeks will also result in ineligibility for Extended Benefits and Federal Supplemental Compensation, unless the claimant has been employed after the date of the disqualification.


Chairman


Associate Member

K:W
kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

The Gibbens Company, Inc.



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

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MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Date: Mailed: 2-14-86

Claimant: Ulysses Francis

Appeal No.: 8513841

S. S. No.:

Employer: Dover Poultry, Inc.

L.O. No.: 01

Appellant: Claimant

Issue: Whether the claimant was discharged for gross misconduct within the meaning of Section 6(b) of the Law.

— 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON March 3, 1986

— APPEARANCES —

FOR THE CLAIMANT:

Ulysses Francis - Claimant

FOR THE EMPLOYER:

Millard Sindler - President
James Hattings - Assistant
Plant Manager
Shirley Morea - Gibbens Company

FINDINGS OF FACT

The claimant was employed by Dover Poultry, Inc., from August 13, 1985.

Under Employer's Union Contract, three consecutive days of failure to notify the employer can result in termination. For the claimant, he had missed six working days which were excused in January, 1985. He missed five days in February, four days in March, six days in April, two and a half in May, three and a half in June, and six out of the eight working days in August. The claimant gave Steve, his supervisor, an excuse for each day he was out. The problem in August of 1985 was that the claimant had to be in a South Carolina court on the 21st and 23rd as a result of a visit he had made down there. He gave the supervisor the paper indicating that he would be back the following Monday. When he arrived at work on that Monday, he was terminated for a violation of the absentee program.

CONCLUSIONS OF LAW

The terms "gross misconduct: is defined as conduct which is a deliberate and willful disregard of the standards of behavior which the employer has a right to expect, showing a gross indifference-to the employer's interest. It is also defined as a series of repeated violations of employment rules, proving that the claimant regularly and wantonly disregarded his obligations to the employer.

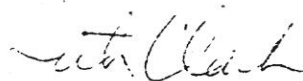
It is concluded from the evidence presented at the appeals hearing that the claimant attempted to follow up the employer's directives and did, in fact, turn in the necessary information to his supervisor that he would be absent on the days in question.

Therefore, it cannot be found that the claimant was discharged for gross misconduct within the meaning of Section 6(b) of the law, and the determination of the Claims Examiner will be reversed.

DECISION

The claimant was discharged, but not for a misconduct connected with the work nor for gross misconduct within the meaning of Section 6(c) and 6 (b) of the Maryland Unemployment Insurance Law. The claimant should contact the local office concerning the other eligibility requirements of the law.

The determination of the Claims Examiner is reversed.



Seth Clark
Hearings Examiner

Date of hearing: January 10, 1986

(las)

Cassette #0131

(Freeman)

Copies mailed on February 14, 1986 to:

Claimant

Employer

Unemployment Insurance - Baltimore

The Gibbons Company