

STATE OF MARYLAND

DEPARTMENT OF EMPLOYMENT AND TRAINING

BOARD OF APPEALS  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH  
Chairman

HAZEL A. WARNICK

Associate Member

SEVERN E. LANIER  
Appeals Counsel

MARK R. WOLF  
Chief Hearing Examiner

— DECISION —

Decision No.: 366-SE-87

Date: May 22, 1987

Appeal No.: 8610383

S. S. No.:

Claimant: Vickie L. Vathes

Employer: Wareheim Air Brakes, Inc.

LO. No.: 20

Appellant: CLAIMANT

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

June 21, 1987

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

Vickie L. Vathes - Claimant

FOR THE EMPLOYER:

Bernard Raley  
Store Manager

## EVALUATION OF THE EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at both hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Employment and Training's documents in the appeal file.

## FINDINGS OF FACT

The claimant worked for the employer from February 3, 1986 until August 5, 1986. She was employed as a parts driver, initially making \$4.00 per hour but at the time of separation earning \$4.50 per hour. She was scheduled to work Monday through Friday from 8:00 a.m. to 5:00 p.m. On August 5, the claimant went out for surgery and the employer expected the claimant would be returning to work on August 8. On August 8 the claimant did come in and advised the employer that she was still having trouble with her stitches and expected to have them removed the following Tuesday. This procedure was delayed until Wednesday but because the employer needed a driver and was not sure when the claimant was coming back, the claimant was replaced.

The claimant subsequently submitted medical documentation verifying that she was under the care of a physician from August 6, through August 13. The claimant had advised the employer on Tuesday that the removal of her stitches had been postponed until Wednesday but the employer needed someone performing the duties and had already hired someone.

## CONCLUSIONS OF LAW

The claimant was replaced or discharged by the employer while out on a medical leave of absence. Since she advised the employer as to the expected date of her return and of the change in conditions which were going to cause her to be absent from work a couple of additional days, the employer's decision to terminate the claimant was without fault on her part and she must be found to have been discharged for a non-disqualifying reason.

## DECISION

The claimant was discharged, but not for misconduct within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon her separation from employment with Wareheim Air Brakes, Inc. The claimant may contact the local office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.

*Thomas W. Keech*  
Chairman

*Loyal A. Merrill*  
Associate Member

K:W

kmb

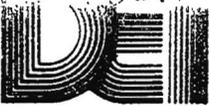
DATE OF HEARING: April 27, 1987

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WALDORF



STATE OF MARYLAND  
 1100 NORTH EUTAW STREET  
 BALTIMORE, MARYLAND 21201

STATE OF MARYLAND  
 HARRY HUGHES  
 Governor

(301) 383-5040

BOARD OF APPEALS

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SEVERN E. LANIER  
 Appeals Counsel

MARK R. WOLF  
 Chief Hearing Examiner

— DECISION —

Date: Mailed: November 13, 1986

Claimant: Vickie L. Vathes

Appeal No.: 8610383-EP

S. S. No.:

Employer: Wareheim Air Brakes, Inc.  
 1400 Warner Street  
 Baltimore, Md. 21230

L.O. No.: 20

Appellant: Employer

Issue: Whether the claimant was discharged for misconduct connected with the work within the meaning of Section 6(c) 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 November 28, 1986

— APPEARANCES —

FOR THE CLAIMANT:

Not Present

FOR THE EMPLOYER:

Michael Modica -  
 Vice President of  
 Finance

FINDINGS OF FACT

The claimant began employment on February 3, 1986 and performed duties as an assistant in heavy duty truck parts distribution. The claimant worked partly as a driver and partly in stock. The claimant last performed such services on August 14, 1986. The claimant had advised her supervisor that she needed some medical

care for unspecified "female problems." The claimant was accorded medical leave by her supervisor, but never returned to the employment. The claimant was to have medical procedures performed as an out-patient and was given permission to be off between the 15th and 18th of August. On the expected date of return, the claimant did not appear and could not be contacted. Subsequently, the employer needed to have the services performed which had been previously performed by the claimant, and replaced the claimant with a new employee.

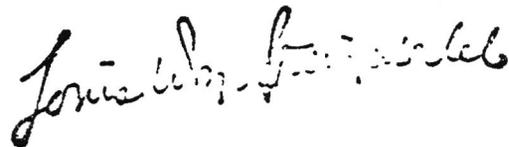
#### CONCLUSIONS OF LAW

It has been held as a condition of employment that an employer has the right to expect his workers to report to work regularly, on time, and as scheduled; and in the event of an unavoidable detainment or emergency absence, to receive prompt notification immediately thereof. In the instant case, the claimant was due to return to work on the 18th of August and failed to do so without notice or explanation to the employer. The claimant's failure to appear for work as scheduled constitutes a dereliction from duty as to amount to misconduct within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law.

#### DECISION

The claimant was discharged for misconduct connected with the work within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning August 17, 1986 and the nine weeks immediately following.

The determination of the Claims Examiner is reversed.



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Louis Wm. Steinwedel  
Hearing Examiner

Date of hearing: October 21, 1986

ras

(6443 --- Jones)

Copies mailed on November 13, 1986 to:

Claimant  
Employer  
Unemployment insurance - Waldorf