



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

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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.