

# Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

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



William Donald Schaefer, Governor  
J. Randall Evans, Secretary

**BOARD OF APPEALS**

Thomas W. Keech, Chairman  
Hazel A. Warnick, Associate Member  
Donna P. Watts, Associate Member

**— DECISION —**

	Decision No.:	452 -BR-89	
	Date:	May 26, 1989	
Claimant:	Patricia A. Forest	Appeal No.:	8902386
		S. S. No.:	
Employer:	Tys, Inc.	L. O. No.:	43
		Appellant:	CLAIMANT

Issue: Whether the claimant was discharged for gross misconduct or misconduct, connected with the 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 MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, IF YOU RESIDE IN 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 June 25, 1989

**— 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 Hearing Examiner based his determination of misconduct upon his finding that the employer became disenchanted with the claimant's disruption of other employees when she was complaining about the raise. The record does not support the finding of the claimant's disruption of other employees by complaining. The employer merely testified that the claimant "was talking to other employees" and "generally throughout the office there was a sense of disruption." This "sense" hardly justifies a finding of misconduct. Furthermore, the employer admitted that, once he was told by the claimant that she had been looking at other job opportunities, he saw this as a signal of the beginning of the end.

The burden of proof in a misconduct case is on the employer. No evidence has been presented sufficient to make a finding that the claimant committed misconduct in connection with her work. An employee's non-disruptive expression of displeasure with her working conditions is not misconduct.

#### DECISION

The claimant was discharged, but not for gross misconduct or misconduct, connected with the work, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon the claimant's separation from employment with Tys, Inc. The claimant may contact the local office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.

  
Associate Member

  
Associate Member

H:D

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WHEATON

William Donald Schaefer  
Governor  
J. Randall Evans  
Secretary

 **Maryland**  
Department of Economic &  
Employment Development

1100 North Eutaw Street  
Baltimore, Maryland  
21201

(301) 333-5040

— DECISION —

**Claimant:** Patricia A. Forest  
**Date:** Mailed: 4/7/89  
**Appeal No.:** 8902386  
**S. S. No.:**  
**Employer:** Tys, Inc.  
**L.O. No.:** 43  
**Appellant:** Claimant

**Issue:** Whether the unemployment of the claimant 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 TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW 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 4/24/89

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— APPEARANCES —

FOR THE CLAIMANT:

Patricia A. Forest - Present

FOR THE EMPLOYER

Tom Capland  
Vice President/Owner

FINDINGS OF FACT

The claimant was employed by Tys, Inc. from June 17, 1987 until January 9, 1989 as a Customer Service Representative. At the time of her separation from employment, the claimant was earning \$21,600 a year on a full-time capacity.

One of the employer's salesmen left his employment and the section in which the claimant worked took over most of his duties. Everyone pitched in but the claimant did a lot of that person's work.

The claimant was not scheduled for a salary review until June, 1989 as she had just been given a raise in June, 1988. The claimant asked her supervisor for an increase because she was performing some of the duties of the departed salesman. The claimant's supervisor went to her boss who looked over the situation. He came to the conclusion that everyone in the Section would get an increase of \$1,500 per year, this would raise the claimant's salary to \$23,100. The claimant thought the increase of \$1,500 was unacceptable because the salesman had been on a commission. The salesman's base pay was a lot less than that of the claimant. The claimant felt insulted and disrupted other employees by discussing this raise with them. Thus, the employer terminated the claimant because of the disruption she had caused.

The claimant is still unemployed.

#### CONCLUSIONS OF LAW

Based upon the testimony presented at the appeal hearing, it is concluded that the claimant did not voluntarily quit her employment as envisioned by Section 6(a) of the Law. In fact, the claimant was terminated by the employer because of the disruption she caused by her reaction to a proposed pay increase. While it is true the claimant had asked for the raise and was instrumental in the raise that was offered, the claimant did not like the fact that the raise was given to the whole department instead of just to herself. The employer became disenchanted with the claimant's disruption of other employees when she was complaining about the raise and terminated her. The question then becomes whether this amounts to misconduct within the meaning of Section 6(b) or Section 6(c) of the Law. The claimant's conduct concerning the raise does, in fact, amount to misconduct within the meaning of Section 6(c) of the Law which has been defined as a transgression of some established rules or policies of the employer, the commission of a forbidden act, a dereliction from duty or a course of wrongful conduct committed by an employee within the scope of her employment relationship during hours of employment on the employer's premises. Therefore, a ten-week penalty under Section 6(c) of the Law will be imposed and the determination of the Claims Examiner reversed.

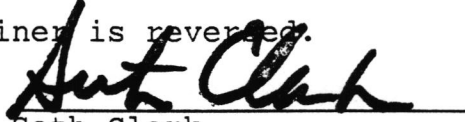
#### DECISION

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 unemployment insurance benefits from the week beginning January



8, 1989 and for the nine week immediately following ending on  
Marh 11, 1989.

The determination of the Claims Exmainer is reversed.

  
Seth Clark  
Hearing Exmainer

Date of hearing: 3/27/89  
kac/Specialist ID: 43722/2413  
Copies mailed on April 7, 1989 to:

Claimant  
Employer  
Unemployment insurance - Wheaton (MABS)