

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

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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

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WHEATON