

 **Maryland**  
Department of Economic &  
Employment Development

*William Donald Schaefer, Governor  
J. Randall Evans, Secretary*

*Board of Appeals  
1100 North Eutaw Street  
Baltimore, Maryland 21201  
Telephone: (301) 333-5032*

*Board of Appeals  
Thomas W. Keech, Chairman  
Hazel A. Warnick, Associate Member  
Donna P. Watts, Associate Member*

**- DECISION -**

Decision No: 577 -BH-90  
Date: June 15, 1990  
Claimant: Charles Lucas, Jr. Appeal No.: 9000224  
S. S. No.:  
Employer: Gladney Transportation L O. No.: 1  
ATTN: Joe Louis Gladney 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.

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**— 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.

July 15, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

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**— APPEARANCES —**

FOR THE CLAIMANT:

Charles Lucas, Claimant

FOR THE EMPLOYER:

Joe Louis Gladney,  
Owner

## EVALUATION OF EVIDENCE

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

one of the questions in this case is whether the claimant was under the influence of drugs at the time he began his employment. The claimant applied for employment on August 17, 1989 and was almost immediately hired (on probation). physical examination conducted of him on August 19, 1989 revealed chemical evidence of the use of cocaine. The claimant admitted using drugs as late as June or July of 1989. He also found it necessary to enter a detoxification center for drug detoxification in November of 1989. Considering all three of the above factors, the Board concludes that the claimant was under the influence of drugs at the time he began actually doing his work of driving a bus for the employer.

## FINDINGS OF FACT

The claimant applied for a job driving a school bus for the employer on August 17, 1989. He was hired as a probationary employee, subject to his passing of a physical examination. The physical examination is required by law, but it is not conducted by the employer. The employer is not made aware of the exact reason that a claimant may have failed the physical, but in this case the employer learned that the claimant failed on account of evidence of the claimant having ingested cocaine. This information did not come to the employer's attention, however, until September 13, 1989.

The claimant drove the school bus from approximately August 17, 1989 through September 13, 1989. On that date, the employer discharged him because the employer had been ordered by the City of Baltimore to do so on the basis of the result of the physical.

The employer had no question on its application concerning past or present drug use.

The claimant, in fact, was using drugs during employment, or at least close enough to employment so as still to be affected by them at the time of his employment.

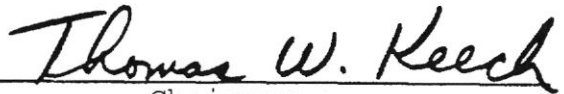
CONCLUSIONS OF LAW

The claimant, by driving a school bus for the employer while still in the condition of being affected by the illegal drugs which he had ingested, committed a deliberate violation of standards the employer had a right to expect, showing a gross disregard for the employer's interest. This is gross misconduct within the meaning of Section 6(b) of the law.

DECISION

The claimant was discharged for gross misconduct, connected with the work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from the receipt of benefits from the week beginning September 10, 1989 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$2,050) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.

  
Chairman

  
Associate Member

K:DW

kbm

Date of Hearing: April 10, 1990

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE