



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*

— D E C I S I O N —

Decision No.: 603-BR-90

Date: June 20, 1990

Claimant: Teddyanne Schoo

Appeal No.: 9002501

S. S. No.:

Employer: Davis, Garth, et al.
t/a Travel Plaza Management
ATTN: Kelly Klepsig

L. O. No.: 40

Appellant: EMPLOYER

Issue: Whether the claimant was discharged for gross misconduct or misconduct, connected with her 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 MAYBE 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 20, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

—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 Board adopts the findings of fact of the Hearing Examiner, with the following exception. The claimant was cooperative and courteous on most occasions; but on January 27, 1990, she walked out of a counseling session called by her supervisor, even though she had been told that the session was not finished.

The Board accepts the other findings of fact of the Hearing Examiner. Though these findings are stated in a confusing manner, the Board interprets these findings to be that the claimant was generally fulfilling her job requirements in good faith and was attempting to be cooperative with her employer in the counseling session of January 30, 1990 and thereafter.

Although the claimant was not terminated specifically for walking out of the January 27th counseling session, she was terminated for a poor attitude, and this allegation included this event. Walking out of a counseling session with one's supervisor can constitute gross misconduct, depending on the circumstances of the case. In the circumstances of this case, however, the Board concludes that this conduct constitutes only simple misconduct, and that the minimum penalty should be applied.

DECISION

The claimant was discharged for misconduct, connected with her work, within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning January 28, 1990 and the four weeks immediately following.

The decision of the Hearing Examiner is reversed.

Thomas W. Keech
Chairman

Lonna P. Watts
Associate Member

K:DW

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT



Maryland

Department of Economic & Employment Development

*William Donald Schaefer, Governor
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*William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner*

*1100 North Eutaw Street
Baltimore, Maryland 21201*

Telephone: 333-5040

— D E C I S I O N —

Claimant:	Teddyanne A. Schoo	Date:	Mailed: 3/23/90
		Appeal No.:	9002501
		S. S. No.:	
Employer:	Davis, Garth, et al	LO. No.:	040
		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 FURTHER APPEAL —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON

April 9, 1990

— APPEARANCES —

FOR THE CLAIMANT:

Claimant - Present
and Stephen Ransdell, Esq.

FOR THE EMPLOYER:

Kim Schmitt,
Director of Food and
Beverages
Neourang Singh,
General Manager of
Roy Rogers

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits effective January 28, 1990.

The claimant was employed by Davis, Garth, et al (t/a Roy Rogers) for the third time from February 20, 1989 to and including January 30, 1990, the last job classification as a supervisor at a weekly salary of \$300.00.

The claimant volunteered to work the 11:00 p.m to 7:00 a.m. shift.

A temporary general manager and a new director of food and beverage became higher management approximately one month before termination.

The claimant attempted to be courteous and cooperative to the best of her ability.

The new general manager of the store prepared write ups concerning the claimant's failure to abide by both health and dress code guidelines.

The claimant was accused of allowing her work shift to violate the dress code by not having them wear hats. The claimant was accused of violating the employer's health regulations as well as the State's health regulations by allowing roast beef to be cut up and to remain in the refrigerator.

The claimant denied violation of any of these rules and was not given an opportunity to read the write ups and to comment on them.

The new general manager and director of food and beverage called the claimant in for a discussion of alleged violation and the write ups on the claimant free time and not when the claimant was scheduled to work. While at the meeting, the claimant received an emergency telephone call and left the premises due to personal reasons. Thereafter, the claimant never contacted management. However, the claimant did contact personnel and informed personnel that it was her conclusion that she was terminated as a result of the incomplete discussion held on January 30, 1990. The personnel representative agreed. The claimant, thereafter, made no attempts to complete the special meeting called to discuss managements previous write ups.

The claimant knows about the health rules and regulations of both her and her employer and never has the opportunity to see the cut up meat in the refrigerator.

The claimant's crew already had left the store's premises at the time the new general manager commented on the violation of the dress code and therefore, the claimant never had the opportunity to observe whether her employees violated the dress code.

CONCLUSIONS OF LAW

As the employer assumed the claimant would be uncooperative in toward management due to the fact that she denied violations of the employer's rules of the dress code and health code, the claimant should be considered terminated for being uncooperative towards new management.

The claimant acts do not demonstrate any acts of misconduct or gross misconduct in connection with one's work for the write ups prepared by the new general manager were never discussed fully.

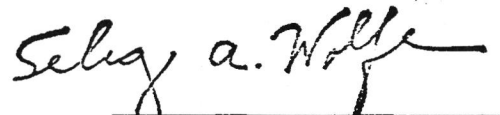
An impression of noncooperation toward new management in itself without prior warnings and counseling, do not demonstrate acts of misconduct or gross misconduct in connected with ones work.

Under the above facts, the determination of the Claims Examiner shall be reversed.

DECISION

The claimant was terminated from her employment but not for any acts demonstrating gross misconduct or misconduct in connection with ones work, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. The denial of benefits for the week beginning January 21, 1990 and for the nine weeks immediately following is rescinded.

The determination of the Claims Examiner is reversed.



Selig A. Wolfe
Hearing Examiner

Date of Hearing: March 12, 1990
lr/Specialist ID: 40309
Cassette No: 2091(B) and 2092(A)
Copies mailed on March 23, 1990 to:

Claimant
Employer
Unemployment Insurance - Eastpoint (MABS)