

 **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.:	655 -BH-91	
	Date:	May 31, 1991	
Claimant:	Paul R. Sims	Appeal No.:	9015342
		S. S. No.:	
Employer:	Red Roof Inns, Inc.	L.O. No.:	43
		Appellant:	EMPLOYER

**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 and whether the claimant's unemployment 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 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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON June 30, 1991

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— APPEARANCES —

FOR THE CLAIMANT;

Paul R. Sims - Claimant

FOR THE EMPLOYER:

John Wailer -  
Manager

## 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.

## FINDINGS OF FACT

The claimant was employed from September 8, 1986 until September 20, 1990. The claimant was employed as a maintenance supervisor. The claimant's employment with this employer came to an end due to discharge by the employer.

The claimant was terminated for allegedly taking unauthorized vacation. The Board finds as a fact that at the time the claimant took off from work, he honestly believed that he was on authorized vacation leave. The claimant had accumulated vacation leave. The misunderstanding between the claimant and his employer was due to miscommunication between them. The claimant's belief that he was on authorized vacation leave is found to be reasonable by the Board.

The claimant did not quit his employment.

## CONCLUSIONS OF LAW

Article 95A, Section 6(b) of the Maryland Unemployment Insurance Law provides that a claimant shall be disqualified from the receipt of benefits if he is discharged from work for conduct which is a deliberate and willful disregard of standards of behavior, which his employer has a right to expect, showing a gross indifference to the employer's interests or a series of repeated violations of employment rules proving that the employee has regularly and wantonly disregarded his obligations. Section 6(c) of the law provides for a lesser penalty if simple misconduct is found to be the reason for the claimant's termination from employment.

In a case of discharge, the burden is on the employer to show that the claimant's actions amounted to gross misconduct or misconduct under Sections 6(b) or (c) of the Maryland Unemployment Insurance Law. The employer has failed to meet his burden in this case.

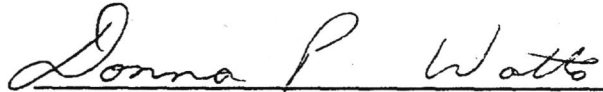
Based on the evidence presented, the Board concludes that the claimant went on vacation which he reasonably believed to be authorized by his employer. These actions do not amount to gross misconduct or misconduct as defined in the Maryland Unemployment Insurance Law.

DECISION

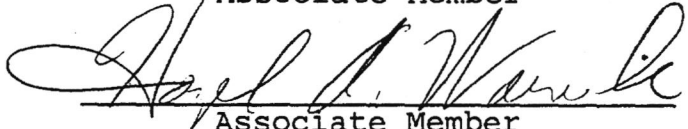
The claimant was discharged, but not for gross misconduct or misconduct, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No disqualification shall be imposed under either of these provisions of the law due to his separation from employment with Red Roof Inns, Inc.

The claimant's unemployment was not due to his having left work voluntarily, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. No disqualification shall be imposed under this section of the law.

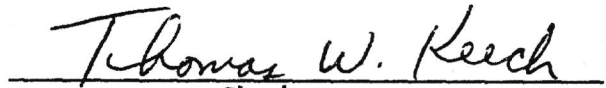
The decision of the Hearing Examiner is affirmed.



Associate Member



Associate Member



Chairman

kmb

DATE OF HEARING: March 19, 1991

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Compensation Consultants, Inc.

UNEMPLOYMENT INSURANCE - WHEATON

 **Maryland**  
Department of Economic &  
Employment Development

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

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

*1100 North Eutaw Street*  
*Baltimore, Maryland 21201*

*Telephone: 333-5040*

**— DECISION —**

Date: Mailed: December 12, 1990

Claimant: Paul R. Sims

Appeal No.: 9015342

S. S. No.:

Employer: Red Roof Inns, 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 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

December 27, 1990

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**— APPEARANCES —**

FOR THE CLAIMANT: Claimant - Present

FOR THE EMPLOYER: Not Present

**FINDINGS OF FACT**

The claimant was employed from September 8, 1986 as a maintenance supervisor at a pay rate of \$8.80 per hour for full-time employment. On September 17, 1990, the claimant went on scheduled vacation from which he was to return on September 24, 1990. On September 20, 1990, when he went to the place of employment to pick up his paycheck, he learned that he had been

discharged for allegedly not reporting for work for the prior three days. This was the reason the claimant did not report for work thereafter.

The employer, duly notified of the time and place of the hearing, was not present.

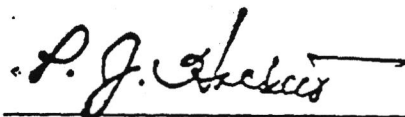
#### CONCLUSIONS OF LAW

It is held that the claimant was discharged by decision of the employer under circumstances that do not constitute misconduct or gross misconduct connected with the work, within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No disqualification will be imposed under these provisions of the statute. The determination of the Claims Examiner, which denied benefits under Section 6(a) of the Law, will be reversed.

#### DECISION

The claimant was discharged was discharged but not for 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 under this provision of the statute separation which occurred on or about September 20, 1990.

The determination of Claims Examiner, under the provisions of Section 6(a) of the Maryland Unemployment Insurance Law, is hereby reversed.



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P.J. Hackett  
Hearing Examiner

Date of Hearing: December 7, 1990

lbw/Specialist ID: 43740

Cassette No.: 9639A

Copies mailed on December 12, 1990 to:

Claimant

Employer

Unemployment Insurance - Wheaton (MABS)