



# 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.:	66-BR-91
	Date:	January 18, 1991
Claimant:	Appeal No.:	90-UCF-295
	S. S. No.:	
Employer:	L. O. No.:	1
	Appellant:	CLAIMANT

Claimant: Loretta Johnson  
ATTN: Mercedes Smith  
Supervisor of Training

Issue:

Whether the claimant was discharged for gross misconduct, connected with the work, within the meaning of Section 6(b) 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, 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

February 17, 1991

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— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals affirms the decision of the Hearing Examiner. The Board, however, disagrees with some of the findings of fact of the Hearing Examiner.

The Board reverses the findings of fact made in the second last paragraph of the Findings of Fact section of the decision. The Board replaces these findings with the findings below.

The claimant missed 11 of the last 34 days of employment. This was over and above time missed, if any, because of having to leave the job early. The claimant was injured, and was taking medication because of her drowsiness, but her job assignments were deliberately adjusted to be within her capabilities. The hours were also cut to four hours per day. The claimant was capable of performing the adjusted work schedule and adjusted duties which she was assigned. This amount of absenteeism was not justified by her illness. She had been counseled both at her initial orientation and also by her last supervisor of the importance of avoiding absenteeism.

The Board will not enter into evidence the additional documents mailed into the Board by the claimant with her appeal. The Board does note, however, that these medical documents would not change the Board's decision in this case, were they admitted.

#### DECISION

The claimant was discharged for gross misconduct, connected with her work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning April 22, 1990 and until she becomes re-employed, earns at least ten times her weekly benefit amount (\$1,440), and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is affirmed.

*Thomas W. Keech*

Chairman

*Donna P. Watts*

Associate Member

K:DW

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Peter D. Ward, Esq.

Minneapolis Postal Data  
Center

ATTN: Payroll Processing  
Twin Cities AMF, MN 55111

 **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: 11/23/90
Claimant:	Appeal No.:	90-UCF-295
Loretta L. Johnson	S. S. No.:	
	L.O. No.:	001
Employer:	Appellant:	Claimant
U.S. Postal Service		
Issue:	Whether the claimant was discharged for gross misconduct connected with the work, within the meaning of Section 6(b) 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 10, 1990

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**— APPEARANCES —**

FOR THE CLAIMANT:

Claimant - Present  
Charles Johnson, Husband

FOR THE EMPLOYER:

Mercedes J. Smith,  
Supervisor of  
Training

**FINDINGS OF FACT**

The claimant was employed by the United States Postal Service as a casual worker on a eighty-nine temporary assignment. Her first day of work of this assignment was April 1, 1990 and her last day was April 24, 1990. This was a job which paid the claimant \$7.00

per hour. The claimant had previously been employed as a casual temporary employee. During that period of employment which started immediately preceding the one at issue, the claimant was hurt. She was placed in a rehabilitation injured status and another temporary eighty-nine day assignment was given to her even though she was in an injured status. During the claimant's first six days of employment in this eighty-nine day temporary, she worked only three days. The following fourteen day pay period, the claimant reported and worked on seven days. The next pay, the claimant reported three out of four days before she was terminated. In all, the claimant worked thirteen of twenty-four days of that assignment.

When an injured light duty assignment; the people are allowed to work at less strenuous jobs and generally their hours are cut to four hours to day. Still, the claimant did not show up or do work on eleven of the days of that period. Additionally, the claimant was told to go to the medical office for an appointment on April 10 and on April 21, 1990. The employer's records do not show that the claimant attended these.

The claimant was on medication and even though her hours were cut to four hours, the medication made her drowsy and she was unable to perform her jobs. She went into the office and left because her supervisor told her that calling sick was not enough. She was suppose to report. The claimant felt that she was being harassed by the employer because of the injury and the fact that she was in rehabilitation.

The claimant has not been released to return to full-time duties as of the date of the hearing.

#### CONCLUSIONS OF LAW

Article 95A, Section 6(b) provides that an individual shall be disqualified from benefits where he/she is discharged from employment because of a series of violations of employment rules which demonstrate a regular and wanton disregard of his/her obligations to the employer. The preponderance of the credible evidence in this case will support a conclusion that the claimant's actions meet this standard of the Law.


Here, it is found that the employer has met its burden of proving that the claimant did not follow the instructions as to reporting to work which was the condition of her employment. Additionally, the claimant apparently did not make two medical appointments she was required to make during that employment and, again, at the request of the employer. Under these circumstances, it must be

concluded that she was separated for gross misconduct, within the meaning of Section 6(b) even though the claimant had been injured at work and was in rehabilitation and working on a part-time basis. Therefore, the determination of the Claims Examiner under Section 6(b) of the Law will be affirmed.

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. Benefits are denied for the week beginning April 22, 1990 and until she becomes re-employed, earns ten times her weekly benefit amount (\$1,44.0) and thereafter becomes unemployed through no fault of her own.

The determination of the Claims Examiner is affirmed.

  
Seth Clark  
Hearing Examiner

Date of Hearing: 11/16/90  
ps/Specialist ID: 01037  
Cassette No. 9328  
Copies mailed on 11/23/90 to:

Claimant  
Employer  
Unemployment Insurance - Baltimore (MABS)

Minneapolis Postal Data Center  
Attn: Payroll Processing  
Twin Cities AMF, MN 55111