



# DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION  
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BOARD OF APPEALS  
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## —DECISION—

	DECISION NO.:	694-BR-83
	DATE:	June 3, 1983
CLAIMANT: James A. Bayne	APPEAL NO.:	22144
	S.S.NO.:	
EMPLOYER: G & M Performance Parts, Inc.	LO. NO.:	7
	APPELLANT:	CLAIMANT

ISSUE Whether the Claimant was discharged for misconduct connected with the work within the meaning of §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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT July 3, 1983

### — APPEARANCE —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

### REVIEW ON THE RECORD

Upon a review of the record in this case, the Board of Appeals reverses the decision of the Appeals Referee.

The Claimant was employed as a Driver by G & M Performance Parts, Inc. , on October 1 , 1979, when he was seventeen years of age. At the time of hire, the Claimant signed a document which authorized the Employer to make any deductions from his wages for any damages to any property of the Employer which the Employer deemed to be his responsibility.

On August 4, 1981, the Claimant was involved in an accident while driving the Employer's truck in the rain. The truck slipped off the road in Western Maryland and was thereby damaged. No other vehicles or witnesses were involved.

The Employer discussed the accident with co-workers of the Claimant to whom the Claimant had reported the accident, and examined the damage to the truck. Based upon this investigation, the Employer "deemed" that the damage to its truck resulted from the Claimant's negligence and that he was responsible therefor. The Claimant denied any negligence or responsibility for the accident. In accordance with the agreement executed at the time of hire, the Employer demanded that the \$250.00 deductible on its insurance policy be taken out of the Claimant's wages. The Claimant, now nineteen years of age, refused and, for that reason, was fired. The Claimant did however, offer to pay for the damages out of vacation pay owed to him by the Employer, but that was not acceptable.

At the hearing before the Appeals Referee, the Claimant argued that he was not negligent; that he did not realize that he had entered into the agreement alleged by the Employer, and that even if he did, he was an infant at that time. The Claimant was born on November 21, 1961.

#### CONCLUSIONS OF LAW

The age of majority in Maryland is 18 years. It is well-settled that he who contracts with an infant does so at his peril for an infant may disaffirm his contract if he does so within a reasonable time after he attains his majority. McBriety v. Spear, 191 Md. 221, 60A 2d 258 (1948). A contract by an infant becomes void ab initio upon disaffirmance thereof by the infant, and the infant escapes any liability under it. McBriety, supra. Mere acquiescence, or inaction after reaching the age of 18 years , if not long continued, does not ripen into ratification, but there must be some positive act or declaration of an unequivocal nature in order to establish ratification. Sprecher v. Sprecher 110 A.2d 509, (1955) . A contract is disaffirmed by any conduct which is inconsistent with the existence of the contract, and shows an intention not to be bound by it. Moreover, a contract is disaffirmed by merely pleading infancy when an action is brought based on the contract. Simpson, Contracts (2d Ed.) p. 228.

It is apparent that since a contract of an infant becomes void ab initio upon disaffirmance thereof, there can be no "misconduct connected with the work" within the meaning of Unemployment Insurance Law based upon such contract.

In the instant case, the Claimant refused to perform his contract entered into when he was an infant, and was fired. When he appeared before the Appeals Referee he effectively pleaded his infancy. The Claimant, having been born on November 21, 1961, had waited 21 months, or nearly 2 years, after attaining his majority, on November 21, 1979, to repudiate the contract. We conclude that the attempt to disaffirm the contract was ineffective because it was not made within a reasonable time after the Claimant attained his majority.

Nevertheless, the questions of whether an individual was negligent and indebted to another by reason of damages caused thereby are technical legal considerations cognizable only in a court of law. The courts have generally been reluctant to enforce contractual clauses which purport to allow a party to make such determinations and thereby circumvent the judicial process. For example, in Sniadack v. Family Finance Corporation, 395 U.S. 337, 89 S. Ct. 1820, 23 L.Ed 2d 349 (1969), the Supreme Court held that a prejudgment garnishment of wages, without a trial, a hearing, or any opportunity on the part of the wage earner to tender any defense he might have, whether fraud or otherwise, was unconstitutional, for it violated fundamental principles of due process of law.

In this case, we conclude that the Claimant's refusal to allow the Employer to deduct \$250.00 from his wages, pursuant to an agreement where the Employer could simply "deem" him indebted in that amount did not constitute "misconduct connected with the work" within the contemplation of Unemployment Insurance Law. We note that the issues of negligence and indebtedness were disputed by the Claimant who offered to settle the matter by paying the entire \$250.00 out of vacation pay owed to him by the Employer.

#### DECISION

The Claimant was discharged, but not for misconduct connected with his work within the meaning of §6(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed based on his separation from his employment with the G & M Performance Parts, Inc. The Claimant may contact his local office concerning other eligibility requirements of the Law.

The decision of the Appeals Referee is reversed.

*Maurice E. Hill*

Associate Member

*Harold W. Merrill*

Associate Member

*Thomas W. Keech*

Chairman

D:W:K

gm

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CLAIMANT

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