



**DEPARTMENT OF EMPLOYMENT AND TRAINING**

**STATE OF MARYLAND**  
HARRY HUGHES  
Governor

**BOARD OF APPEALS**  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

(301) 383-5032

**BOARD OF APPEALS**

THOMAS W. KEECH  
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HAZEL A. WARNICK  
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Associate Members

SEVERN E. LANIER  
Appeals Counsel

MARK R. WOLF  
Chief Hearing Examiner

**- DECISION -**

Claimant: Victoria A. Benvenga

Employer: Sapero & Sapero  
ATTN: Robert A. Sapero  
Attorney

Decision No.: 720-BH-84  
Date August 21, 1984  
Appeal No.: 15645  
S. S. No.;  
LO. No.: 40  
Appellant: CLAIMANT

Issue Whether the claimant was discharged for misconduct, connected with the work, within the meaning of §6(c) of the Maryland Unemployment Insurance 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 ON September 20, 1984

**- APPEARANCES -**

FOR THE CLAIMANT:

Victoria Benvenga, Claimant  
Nancy Carson, Witness

FOR THE EMPLOYER:

Robert Sapero,  
Attorney

## 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 into this case, as well as the Department of Employment and Training's documents in the appeal file.

## FINDINGS OF FACT

The claimant was employed from June 20, 1983 until November 11, 1983 as a paralegal trainee. She earned \$180.00 per week gross salary. Although the claimant's work performance was marginal, the employer had no intention of terminating the claimant for her work performance.

In late October of 1983, the claimant mentioned in a casual conversation with another employee, Nancy Carson, that another law firm had an opening for a legal secretary. Other employees also mentioned this to Nancy Carson. It was known to many of them that Nancy Carson was looking for another job. Nancy Carson eventually applied for and accepted this other job. The claimant was then fired for having mentioned this job to Nancy Carson.

## CONCLUSIONS OF LAW

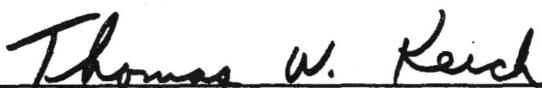
Even if the facts in this case were as found by the Appeals Referee, the Board of Appeals perceives no misconduct on the part of the claimant. The claimant was clearly not soliciting on behalf of the other law firm. Encouraging a co-employee to accept a better job from another employer is certainly within an employee's rights and does not constitute any sort of breach of trust with the employer.

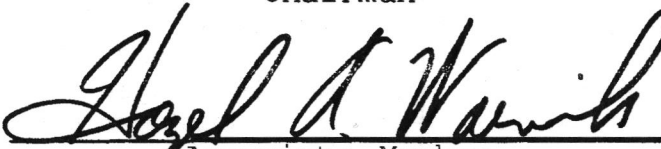
The facts, of course, do not even support a finding that the claimant encouraged Nancy Carson to accept the other employment. In fact, the claimant merely mentioned the employment opportunity. Many other people also mentioned the opportunity to Nancy Carson. To hold that the claimant's mentioning of another job possibility to co-workers is misconduct would be a ludicrous misuse of the doctrine of the duty of loyalty an employee owes to an employer. The claimant was not competing with her employer, she was not being compensated by another law firm for recruiting persons from the employer, and she was not using or revealing any information she had received in confidence as a result of her employment. She was merely passing along some publicly available, useful information to a friend about a job possibility. Such is every employee's right.

DECISION

The claimant was discharged, but not for misconduct or gross misconduct within the meaning of §6 of the Maryland Unemployment Insurance Law. No disqualification is imposed based on her reason for separation from Sapero and Sapero. The claimant may contact the local office concerning the other eligibility requirements of the law.

The decision of the Appeals Referee is reversed.

  
Chairman

  
Associate Member

K:W

Associate Member Maurice Dill recused himself from this case.

D

kbm

Date of Hearing: May 15, 1984

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT



STATE OF MARYLAND  
 HARRY HUGHES  
 Governor  
 KALMAN R. HETTLEMAN  
 Secretary

DEPARTMENT OF HUMAN RESOURCES  
 EMPLOYMENT SECURITY ADMINISTRATION  
 1100 NORTH EUTAW STREET  
 BALTIMORE, MARYLAND 21201  
 383 - 5040

BOARD OF APPEALS  
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 Appeals Counsel  
 MARK R. WOLF  
 Administrative  
 Hearings Examiner

- DECISION -

CLAIMANT: Victoria A. Benvenga  
 DATE: March 2, 1984  
 APPEAL NO.: 15645-EP  
 S. S. NO.:  
 EMPLOYER: Sapero & Sapero  
 Attorneys at Law  
 L. O. NO.: 40  
 APPELLANT: Employer

ISSUE: Whether the claimant is subject to a disqualification of benefits within the meaning of Section 6(c) 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 EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON September 20, 1984

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- APPEARANCES -

FOR THE CLAIMANT: Not Present  
 FOR THE EMPLOYER: Robert Allen Sapero - Attorney

FINDINGS OF FACT

The claimant worked from June 20 until November 11, 1983 as a para legal trainee earning \$180.00 gross weekly salary. Her work was generally marginal, but the employer would not have terminated her for her marginal activity.

She was fired from employment because she solicited a secretary in the employer's office to go to work for another law firm. This secretary was not looking for another job and was perfectly happy as a secretary in the law offices of Sapero and Sapero. It was the claimant who solicited the secretary for another law office and then the secretary left. When the employer found about this, he fired her because of her actions.

#### CONCLUSIONS OF LAW

Clearly, the claimant enjoyed a position as a para legal trainee which is a position of trust in the employers law office. As part of that trust, loyalty to the employer is certainly one of the main and key ingredients. While there may not have been a posted schedule of employment rules, common sense dictates that an employee should not solicit employees of the place of employment for another employer. The claimant encouraged the secretary to leave the employer's law firm to go and become employed someplace else. Her conduct is a deliberate and willful disregard of standards of behavior, which the employer has a right to expect, showing a gross indifference to the employers interest, and hence, constitutes gross misconduct connected with the work within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. As a professional person in the employer's law office the claimant owed an obligation to the employer to be loyal and to adhere to certain conduct which would normally be expected of employees. The claimant, instead, instituted actions which were detrimental to the employer's best interest, namely soliciting a secretary to go to work for another law firm. As such, the claimants conduct clearly falls within the disqualifying provisions of section 6(b) of the Law, and the Appeals Referee has no hesitation whatsoever in disqualifying the claimant under that Section of the Law.

There may not have been formalized employment rules stating that the claimant's conduct was wrong, but the rules of office etiquette and of the work place would dictate that one does not solicit a happy employee to go to another law firm, thereby causing a change of personnel and the accompanying detriment to the employer.

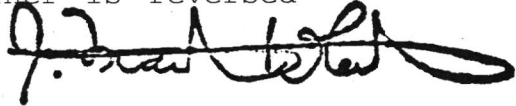
#### DECISION

The claimant was discharged from employment for gross misconduct connected with the work within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law.

She is disqualified from receiving benefits for the week beginning November 6, 1983 and until she becomes re-employed earns at least ten times her weekly benefit amount (\$1,050.00) and thereafter becomes unemployed through no fault of her own.

The Employer's Protest is sustained.

The determination of the Claims Examiner is reversed



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J. Martin Whitman  
Appeals Referee

Date of hearing: 2/21/84  
amp/2629  
(Williams)  
720-A  
Copies mailed to:

Claimant  
Employer  
Unemployment insurance - Eastpoint