



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: 383-5032

BOARD OF APPEALS
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Secretary

—DECISION—

DECISION NO.: 725-SE-83

DATE: June 16, 1983

CLAIMANT: Linda K. Michel Cummings

APPEAL NO.: 19311

S.S.NO.:

EMPLOYER: Rod n' Reel Restaurant
General Delivery

LO. NO.: 33

APPELLANT: EMPLOYER

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 16, 1983

— APPEARANCE —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Linda Michel Cummings - Present

Gerald Donovan -
President

EVALUATION OF THE 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 the case, as well as Employment Security Administration's documents in the file.

FINDINGS OF FACT

The Claimant was hired by the Rod n' Reel Restaurant on March 10, 1981. She worked for this employer until July 6, 1981. She was discharged by the employer on that date. At the time her employment was terminated, the claimant was earning \$4.00 per hour.

At the time the claimant began working for the Rod n' Reel Restaurant, her work duties were varied. She performed general office work, both secretarial and clerical, booked fishing parties, called Bingo and also acted as a disc jockey on a temporary basis. Supplying the customers with disc jockey music was not successful, and it was discontinued. The claimant became dissatisfied with the pay she received for calling - Bingo, and she was also relieved of these duties. After she no longer acted as a disc jockey and Bingo caller, her employment consisted of general office duties.

The claimant was a part time office employee when she called Bingo and acted as a disc jockey. Her general office duties gradually increased. There were three or four women who shared the office duties with the claimant. When one of these employees quit and was not replaced, the claimant's office duties became full time.

On July 6, 1981 the claimant was informed by her immediate supervisor that she was being assigned the job of computing the employees' time cards for payroll purposes. The claimant told her supervisor that she was not going to do this job because she had no accounting experience and was afraid she would make mistakes. When the claimant refused to accept the new job assignment, she was called to the office of the president of the company.

In the office, the president informed the claimant that he expected her to do the job. The claimant had a change of heart and agreed that she would learn and perform the new duties in addition to her other work. The claimant, however, requested that the president supply her with a written description of her job duties. In answer to this request, he informed her that her job duties consisted of doing any and all reasonable requests he made of her.

The claimant told the president that she would perform the duties, including the time cards, but that she was going to make a complaint with the Equal Employment Opportunity Commission. The claimant then left her employer's office and went back to work.

Shortly after returning to her office, the claimant was requested to return to the president's office. When she arrived, an owner of the company told her again that he wanted her to perform her new job assignment and expected that the work be done. The claimant agreed with the president and the owner that she would do the job, but stated that she was still going to the EEOC. When the claimant made this reply, the president discharged her.

CONCLUSIONS OF LAW

Ordinarily, when an employee refuses to perform a reasonable work related job duty at the request of his or her employer, that refusal is grounds for discharge within the meaning of §6(b) or §6(c) of the Maryland Unemployment Insurance Law. In the instant case, however, the Board concludes that the claimant was discharged, not because she refused to perform an assigned task, but because she informed her employer that she was going to make a complaint with the EEOC. The claimant did not refuse to perform the job duties. She was fired when she informed her employers that she was going to complain to the EEOC.

The claimant had a right to complain to the EEOC if she felt that she was being mistreated by her employer. Alerting her employer that she intended to file a complaint with that agency does not constitute misconduct within the meaning §6(b) or 6(c) of the Maryland Unemployment Insurance Law.

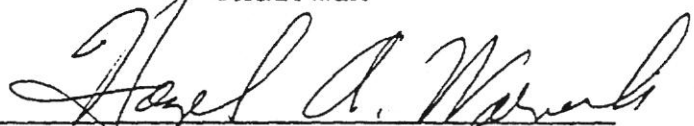
DECISION

The claimant was discharged but not for gross misconduct or misconduct connected with the work within the meaning of §6(c) or §6(b) of the Law. No disqualification is imposed based on her separation from her employment with the Rod n' Reel Restaurant.

The decision of the Appeals Referee is affirmed.



Chairman



Associate Member

K:W

kmb

DATE OF HEARING: March 17, 1983

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Patricia A. Aluisi, Esquire



DEPARTMENT OF HUMAN RESOURCES
 EMPLOYMENT SECURITY ADMINISTRATION
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BOARD OF APPEALS

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STATE OF MARYLAND

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 Governor

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 Secretary

- DECISION -

GARY SMITH
 Chief Hearings Officer

CLAIMANT: Linda K. Michel

DATE: Nov. 5, 1981

APPEAL NO.: 19311

S.S.NO.:

EMPLOYER: Rod 'n Reel Restaurant
 General Delivery

L.O.NO.: 33

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 EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, **ROOM 515**, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 021201, EITHER IN PERSON OR MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON November 20, 1981

- APPEARANCES -

FOR THE CLAIMANT:

Linda K. Michel - Claimant

FOR THE EMPLOYER:

Not Represented

FINDINGS OF FACT

An original hearing was held on August 13, 1981 before Appeals Referee Matthew Zahner. The appeal was continued for the purpose of taking additional testimony. The Appeals Referee was hospitalized and had extensive recouplement. The tape taken at the hearing was inlegitable so this hearing was held again on September 29, 1981.

The claimant was employed by Rod 'n Reel Restaurant from March 10, 1981 as a sales representative earning \$4.00 an hour until her last day of work July 5, 1981.

The claimant's duties at the time of hire were given to her verbally and included booking chartered boats, setting up BINGO buffet parties, doing secretarial work and play records during Happy Hour. Later, the claimant called BINGO on Thursday night and Sunday. Later, the claimant duties included typing menus and correspondences, inventory control and bids on food. Additional duties were given to the claimant from time-to-time. A disagreement between the claimant and the employer arose over equal pay for duties not related to the office.

The claimant was then told to come in early to do the payroll. When the claimant refused, the claimant was advised that if she did not come in she would be discharged. The claimant then agreed to learn the payroll but wanted her job description put in writing. The employer refused to do this telling the claimant her job duties consisted of doing anything and everything. The claimant agreed to do the payroll but told the employer she would see him in the Equal Employment Office. The claimant left the employer's office but was later told of her discharge.

As of the time of the hearing the claimant was unemployed.


COMMENTS

The Appeals Referee finds nothing in the claimant's actions to warrant a finding of misconduct connected with her work within the meaning of the Maryland Unemployment Insurance Law. Therefore, the determination of the Claims Examiner will be reversed.

DECISION

The unemployment of the claimant was due to a non-disqualifying reason within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. She is entitled to benefits from the week beginning July 5, 1981, if she is otherwise eligible under the Law.

The determination of the Claims Examiner is reversed.



John G. Hennegan
APPEALS REFEREE

DATE OF HEARINGS: August 13, 1981
September 29, 1981

ras
(8689 & 9506 --- Ferguson)

copies mailed to:

- Claimant
- Employer
- Unemployment Insurance - Prince Frederick