

 **Maryland**
Department of Economic &
Employment Development

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Board of Appeals
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Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

Decision No.:	853-BR-92
Date:	May 27, 1992
Claimant: Marcellus Davis	Appeal No.: 9203161
	S. S. No.:
Employer: National Security Agency	L O. No.: 2
	Appellant: CLAIMANT
Issue:	Whether the claimant was discharged for gross misconduct or misconduct, connected with the work, within the meaning of Section 8-1002 or 8-1003 of the Labor and Employment Article.

— 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, 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

June 26, 1992

— 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.

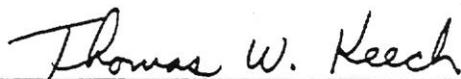
The claimant, an engineer for the National Security Agency, was required to have a top secret clearance to keep his job. Although the claimant was not told when first hired that he had to conduct himself in any particular way, he did know that the clearance was a requirement of his job and that losing the clearance would eventually mean the loss of his job. Under these circumstances ~~it is reasonable to conclude that~~ the claimant had a duty to his employer to conduct himself in such a way as to maintain his security clearance.

The claimant lost his security clearance for a number of different reasons. According to the claimant's uncontradicted testimony, some of these reasons had little to do with his own conduct. To the extent that the claimant lost his clearance due to circumstances beyond his control, the loss of the clearance cannot be considered misconduct. One of the primary reasons for the claimant losing his clearance, however, was his conviction for driving while intoxicated. The claimant's actions in this instance were within his control, and this culpable conduct leading to the loss of his clearance was misconduct, connected with the work, within the meaning of Section 8-1003 of the law.

DECISION

The claimant was discharged for misconduct, connected with his work, within the meaning of Section 8-1003 of the Labor and Employment Article. He is disqualified from receiving benefits from the week beginning January 12, 1992 and the nine weeks immediately following.

The decision of the Hearing Examiner is affirmed, for the reasons stated above.



Chairman



Associate Member

K:HW

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - GLEN BURNIE