

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

BOARD OF APPEALS

Thomas W. Keech
Chairman

Hazel A. Warnick
Associate Member

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Baltimore, Maryland 21201
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William Donald Schaefer, Governor
J. Randall Evans, Secretary

Decision No.: 912-BR-87
Date: Dec. 28, 1987
Claimant: Michael Anderson
Appeal No.: 8702450
S. S. No.:
Employer: Chem Clear, Inc.
c/o Automatic Data Processing
L.O. No.: 1
Appellant: EMPLOYER
Issue: Whether the claimant was discharged for gross misconduct or misconduct, connected with his work, within the meaning of Section 6(b) or 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.

January 27, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner and concludes that the claimant was discharged for gross misconduct within the meaning of Section 6(b).

The Board disagrees with the Hearing Examiner's conclusion that the claimant was discharged because of his union activities. The preponderance of the evidence, documentary and testimony, is that the claimant was fired for a series of incidents including: (1) negligent operation of equipment; (2) insubordination toward a supervisor; (3) refusing to follow the reasonable instruction of a supervisor; (4) leaving his work station early, without permission; and (5) 22 incidents of lateness within a 90-day period.

Where a claimant alleges that the reasons for discharge, though objectively based, are nevertheless just a pretext for an underlying discriminatory motive, the claimant has the burden of showing that the objective reasons proven were really just a pretext. Adegbesan v. The Arundel Corporation, 322-BH-85.

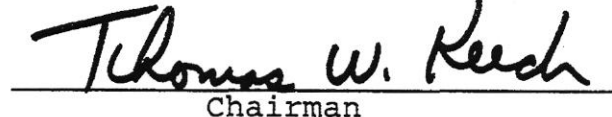
The claimant here has failed to meet that burden. He has produced only the vaguest, most subjective evidence of his union activity and any connection of that activity with his discharge. Therefore, the decision of the Hearing Examiner must be reversed.

DECISION

The claimant was discharged for gross misconduct, connected with his work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning January 18, 1987 and until he becomes reemployed, earns at least ten times his weekly benefit amount (\$1,950) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.


Associate Member


Chairman

W:K

kbm

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UNEMPLOYMENT INSURANCE - BALTIMORE