

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  
Chairman  
HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members  
SEVERN E. LANIER  
Appeals Counsel  
MARK R. WOLF  
Chief Hearing Examiner

— DECISION —

Decision No.: 949-BR-85  
Date: October 18, 1985  
Claimant: Gerald S . Dunavant  
Appeal No.: 06188  
S. S. No.:  
Employer: Federal Armored Express, Inc. L.O. No.: 40  
ATTN: Anthony Celani  
Appellant: EMPLOYER  
Issue: Whether the Claimant was discharged for gross misconduct, con-  
netted with the work, within the meaning of § 6(b) 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 MAYBE TAKEN IN PERSON OR THROUGH AN A 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 November 17, 1985

— 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.

The Board agrees with the Hearing Examiner that the fact that the bag fell off of the hand truck was not misconduct on the part of the claimant.

The claimant, however, deliberately skipped one step of his employer's security procedures, i.e., the counting of the bags as they were placed on the truck. The claimant admitted that he and a coworker (the driver) shared the responsibility for checking the bags into the truck. Each bag contained up to \$12,000 in cash and checks. The employer is engaged in a security business, that is, the secure transportation of large amounts of cash and checks for its customers. Had the security procedure been followed, the fact that the bag was missing would have been discovered immediately.

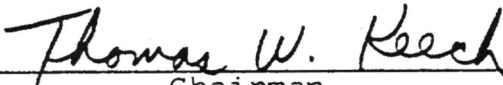
The claimant testified that he and his coworker skipped this one security step because they were "pressed for time." There is no evidence, however, that the claimant's schedule was so unreasonably oppressive so as to make it impractical for him to comply with the procedures.

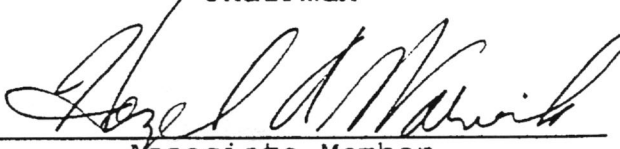
The Board concludes that the claimant's deliberate violation of an important security procedure in this context, where huge amounts of money were at stake and where the security violation greatly increased the risk of loss to his employer, amounted to a deliberate violation of employment standards, showing a gross indifference to his employer's interest. This is gross misconduct within the meaning of §6(b) of the law and not simple misconduct under §6(c) of the law. An increased penalty will therefore be applied.

#### DECISION

The claimant was discharged for gross misconduct, connected with the work, within the meaning of §6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning April 7, 1995 and until he becomes reemployed, earns at least ten times his weekly benefit amount (\$1320.00) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Associate Member

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Barry L. Green, Esquire

The Gibbens Company, Inc.  
ATTN: Clif Cecchi

UNEMPLOYMENT INSURANCE - EASTPOINT



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BOARD OF APPEALS

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SEVERN E. LANIER
Appeals Counsel

— DECISION —

Claimant: Gerald S. Dunavant
Employer: Federal Armored Express, Inc.
Data: Mailed 6/28/85
Appeal No.: 06188-CL/EP
S. S. No.: 217-56-9261
L.O. No.: 40
Appellant: Claimant/Employer

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 TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW 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 A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON July 15, 1985

— APPEARANCES —

FOR THE CLAIMANT:

Claimant-Present
Barry L. Green, Esq.

FOR THE EMPLOYER:

Anthony Celani-
Assistant Branch
Manager;
Clif B. Cecchi-
The Gibbens Co.,
Inc.

FINDINGS OF FACT

The claimant has a benefit year effective April 14, 1985. His weekly benefit amount is \$132. The claimant was employed by Federal Armored Express of Baltimore, Maryland on January 23, 1984. He was performing duties as a Guard and Driver at \$4.55 per hour at the time of his separation on April 15, 1985.

The testimony reveals that the claimant was dispatched to the Hecht Company on Howard Street, where he delivered some items and picked up three bags. He put the bags on his hand cart and took them out to the armored express vehicle that was parked on the road. Because of the construction going on on Howard Street and the road being very bumpy, apparently a bag slipped off the hand cart and the claimant put two pieces on the truck instead of three.

There is a procedure for putting items into the truck. The man in the truck is supposed to count the number of items that are being placed in there by the other employee. In the instant case at Hecht Company, the man in the truck did not make a physical count of the number of bags being placed on the truck. When they arrived at the next stop, they realized that one of the three bags was missing.

The claimant immediately called his employer, indicating that one of the pieces was missing, and then he went back to the scene at Hecht Company to try to locate the bag. He was not able to locate the bag, and as a result of losing this one bag, valued at \$12,000, the claimant was discharged.

The employer found the bag four days later at the Hecht Company, but this was after the claimant had been discharged. The employer has insurance coverage for losses, but there is no insurance covering losses under \$20,000. Since the loss was \$12,000 the employer would have been liable. As a result, he was liable for the penalties incurred for delayed payments on the items in the bag.

The claimant has remained unemployed from April 15, 1985 to the present.

#### CONCLUSIONS OF LAW

It is concluded from the testimony that the actual losing of one bag off of the hand truck was not in itself misconduct. However, the mistake would have been discovered and rectified immediately had the claimant and his helper followed the procedures given by the employer, namely the counting of the number of bags as they transferred it from the hand cart to the armored vehicle. The careless manner in which the claimant conducted the employer's business does constitute misconduct under Section 6(c) of the Law, and the determination of the Claims Examiner will be affirmed.

DECISION

The claimant was discharged for misconduct connected with the work within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits for the week beginning April 7, 1985 and the nine weeks immediately following. The determination of the Claims Examiner under Section 6(c) of the Law is affirmed.

This denial of unemployment insurance benefits for a specified number of weeks will also result in ineligibility for Extended Benefits, and Federal Supplemental Compensation (FSC), unless the claimant has been employed after the date of the disqualification.

William R. Merriman

William R. Merriman  
APPEALS REFEREE

Date of hearing: 6/19/85

Cassette: 4005

hf (E. Wilson)

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Claimant  
Employer  
Unemployment Insurance-Eastpoint

Barry L. Green, Esquire

The Gibbens Co., Inc.