



Maryland

Department of Economic & Employment Development

*William Donald Schaefer, Governor
J. Randall Evans, Secretary*

*Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032*

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

— DECISION —

Decision No.:	992-BR-89
Date:	November 9, 1989
Claimant: Martin J. Collins	Appeal No.: 8910156
	S. S. No.:
Employer: Kronheim Co., Inc. ATTN: Jeff Caton, Display Dept.	L. O. No.: 2
	Appellant: EMPLOYER
Issue:	Whether the claimant was discharged for gross misconduct, connected with the work, within the meaning of Section 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 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 AT MIDNIGHT ON December 9, 1989

— 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the Board of Appeals reverses the Hearing Examiner's finding that the claimant was unaware that his driver's license was revoked. Instead the Board finds as a fact that the claimant was aware, or should have been aware, that his license was revoked.

The claimant did not deny that his license had been revoked, that he had failed to attend a MVA hearing or that he had been charged with driving while intoxicated. The claimant's testimony was that he was unaware, at the time of his discharge, that his license had been revoked. The Board takes administrative notice that the Motor Vehicle Administration sends notices of its license revocations to its licensees at their address of record. The Board concludes that the claimant either failed to read the revocation notice or failed to keep the MVA informed of his current address.

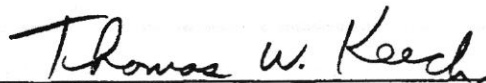
The claimant's own testimony supports this conclusion. The claimant admitted using a false driver's license on a previous occasion for illegal purposes. He admitted that he had moved, and he implied that he had not kept the MVA informed of his new address. The claimant simply presented no credible testimony which successfully rebutted the presumption that notice of his license revocation had been sent to him by the normal procedures. Accordingly, the Board concludes that the claimant either had actual knowledge that his license was revoked or should have had such knowledge.

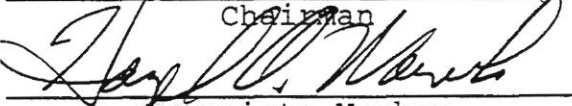
Since the claimant drove the company vehicle while his license was revoked and since he knew or should have known that his license was revoked at the time, the claimant's conduct was a deliberate violation of standards of conduct the employer had a right to expect, showing a gross indifference to the employer's interest. This is gross misconduct, connected with the work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law.

DECISION

The claimant was discharged for gross misconduct, connected with the work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning July 23, 1989 and until he becomes reemployed, earns at least ten times his weekly benefit amount and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.



Chairman


Associate Member

K:H
kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Kronheim Co., Inc.
c/o Unemployment Tax Service

UNEMPLOYMENT INSURANCE - GLEN BURNIE

William Donald Sweeney
Governor

J. Randall Evans
Secretary

1100 North Eutaw Street
Baltimore, Maryland
21201

(301) 333-5040

 **Maryland**
Department of Economic &
Employment Development

— DECISION —

Claimant:	Martin J. Collins	Date:	Mailed: 9/14/89
		Decision No.:	8910156
		S. S. No.:	
Employer:	Kronheim Co., Inc.	L.O. No.:	002
		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 BY MAIL

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON September 29, 1989

— APPEARANCES -

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Jeff Caton, Display Dept.

FINDINGS OF FACT

The employer is a liquor wholesaler. From September of 1988 until July 24, 1989, the claimant worked as a product displayer; he travelled around the State of Maryland and drove a company vehicle. One of the requirements of his job was that he have a valid driver's license.

In July of 1989, the claimant was arrested in Cumberland, Maryland, for disorderly conduct after an argument in a bar with another customer. During the identification check, the State Police learned that the claimant's driver's license had been revoked after he failed to appear for a Driving While Intoxicated

(DWI) hearing. The State Police informed the employer. The claimant did not know that his driver's license had been-revoked.

CONCLUSIONS OF LAW

Article 95A, Section 6(c) provides for disqualification from benefits where a claimant is discharged for actions which constitute a transgression of some established rule or policy of the employer, a forbidden act, a dereliction of duty or a course of wrongful conduct committed within the scope of the employment relationship, during hours of employment or on the employer's premises. The preponderance of the credible evidence in the instant case will support a conclusion that the claimant's actions do not rise to the level of misconduct within the meaning of the Statute.

Since the claimant did not know that his license had been revoked, there is insufficient evidence for a finding of misconduct.

DECISION

The determination of the Claims Examiner is reversed.

The claimant was discharged, but not for misconduct within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law.

The determination denying benefits beginning July 23, 1989 and until the claimant becomes re-employed and earns at least ten times his weekly benefit amount (\$1,430), is rescinded.

Benefits are allowed if the claimant is otherwise qualified.


 Van D. Caldwell
 Hearing Examiner 

Date of Hearing: 9/11/89

rch/Specialist ID: 02419

Cassette Number: 7745

Copies mailed on 9/14/89 to:

Claimant

Employer

Unemployment Insurance - Glen Burnie (MABS)

Kronheim Co., Inc.

c/o Unemployment Tax Service, Inc.