



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.:	561-BH-90	
	Date:	June 12, 1990	
Claimant:	James Young	Appeal No.:	8913648
	S. S. No.:		
Employer:	Carl Julio, <u>et al.</u>	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; whether the claimant filed a timely appeal or had good cause for an appeal filed late within the meaning of Section 7(c) (3) 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.

July 12, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

James Young, Claimant

FOR THE EMPLOYER:

George Salvio,
Property Manager

EVALUATION OF EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearing. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Economic and Employment Development's documents in the appeal file.

FINDINGS OF FACT

The claimant, James Young, was employed from January 6, 1989 until September 1, 1989 as a porter. The claimant was discharged due to the fact that he had stolen a lady's purse, in the building to which he was assigned.

On September 1, 1989, the claimant reported that he had found a purse in the stairwell of the tenth floor. The police were notified and an investigation was made of the matter. It was discovered that the claimant had been seen on the floor with a cart that had a strap similar to the one on the stolen purse hanging out of it.

The claimant had also been seen removing trash cans from various cubicles. One of these cubicles included the one from which the purse was stolen. It is not one of the claimant's job duties to empty trash cans. It is the responsibility of a separate janitorial service to empty trash cans. If the trash cans had not been emptied, the claimant would have been called to do so. However, this did not happen on the morning on which the purse was stolen. The claimant had no reason to be on that floor, that morning.

The claimant did not receive notice of his disqualification and his right to file an appeal until after the appeal deadline had passed.

CONCLUSIONS OF LAW

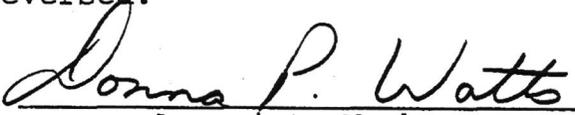
Section 6(b) of the Maryland Unemployment Insurance Law provides that a claimant shall be disqualified from benefits where he has been discharged for actions which constitute a deliberate and willful disregard for standards which the employer has a right to expect or a series of violations of employment rules which demonstrate a regular and wanton disregard of the employee's obligations to the employer. The actions of the claimant, stealing a purse of an employee of the building to which he was assigned, constitute gross misconduct within the meaning of Section 6(b) of the law.

The claimant failed to file a timely appeal within the meaning of Section 7(c)(3) of the law. However, he had good cause for filing late. The claimant had not received notice of his disqualification or of his right to appeal until after the appeal deadline had passed.

DECISION

The claimant had good cause for filing a late appeal within the meaning of Section 7(c)(3) of the Maryland Unemployment Insurance Law. The decision of the Hearing Examiner as to this issue is affirmed.

The claimant was discharged for gross misconduct, connected with his employment, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning August 27, 1989 and until he becomes re-employed, 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 as to this issue is reversed.


Associate Member


Associate Member


Chairman

DW:W:K

kbm

Date of Hearing: February 13, 1990

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE -
BALTIMORE

EMPLOYER

Mr. George Salvio



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— D E C I S I O N —

Date: Mailed: November 29, 1989

Claimant: James Young Appeal No.: 8913648

S. S. No.:

Employer: Carl Julio, et al. LO. No.: 1

Appellant: Claimant

Issue: Whether the claimant was discharged for gross misconduct connected with the work within the meaning of Section 6(b) of the Law. Whether the appealing party filed a timely appeal or had good cause for an appeal filed late within the meaning of Section 7(c)(3) 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON December 14, 1989

— A P P E A R A N C E S —

FOR THE CLAIMANT:

James Young - Claimant

FOR THE EMPLOYER:

George A. Salvio
and Dennis
Weisman - Building
Superintendent

FINDINGS OF FACT

The last day for the claimant to have filed an appeal was October 20, 1989. The appeal was filed on October 27, 1989. The appeal was filed late--because the claimant received the Notice of

Benefit Determination and right to appeal after the deadline had passed.

From January 6, 1989 until he was discharged, the claimant worked as a porter. He was discharged after being accused of stealing a lady's purse. The evidence against the claimant is as follows: (1) He was the only porter in the building. (2) He was on a floor that did not need service at the time and he was in the vicinity of the victim's desk. (4) One witness said that he saw the strap of a purse hanging out of a trash can being used by the claimant. (5) The purse was found in the stairwell. (6) The victim refused to press charges.

CONCLUSIONS OF LAW

The claimant had good cause for filing a late appeal. He did not receive the notice of disqualification and his right to file an appeal until after the deadline had passed.

Article 95A, Section 6(b) provides for a disqualification from benefits where an employee is discharged for actions which constitute (1) a deliberate and willful disregard of standards which the employer has a right to expect or (2) a series of violations of employment rules which demonstrate a regular and wanton disregard of the employee's obligations to the employer. 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 gross misconduct within the meaning of the Statute.

The testimony and documentary evidence submitted by the employer is insufficient for a finding of misconduct. Without more evidence, the allegations remain allegations and not facts.

DECISION

The claimant had good cause for filing a late appeal.

Under Section 6(b), the determination of the Claims Examiner is reversed.

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

The determination of the Claims Examiner denying benefits for the week beginning August 27, 1989 and until the claimant becomes re-employed, earns at least ten times his weekly benefit amount (\$1,100) is rescinded.


Van D. Caldwell
Hearing Examiner

Date of hearing: 11/27/89

amp/Specialist ID: 01033

Cassette No. 9863

Copies mailed on November 29, 1989 to:

Claimant

Employer

Unemployment insurance - Baltimore (MABS)