

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

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

- D E C I S I O N -

	Decision No.:	607-BR-91
	Date:	May 24, 1991
Claimant: Robert Darby	Appeal No.:	9102043
	S. S. No.:	
Employer: Buckingham Correctional Inst. ATTN: Roberta Campbell	L.O. No.:	50
	Appellant:	CLAIMANT
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, 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 23, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER

REVIEW ON THE RECORD

As a procedural matter, the Board notes that it issued an order on May 8, 1991 giving both parties an additional opportunity to submit additional evidence in writing. No further evidence was received.

Upon a review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner.

The Board adopts the findings of fact of the Hearing Examiner, including the finding that the claimant did not falsify his application. Based on these facts, the Board concludes that the claimant's discharge was not for any misconduct.

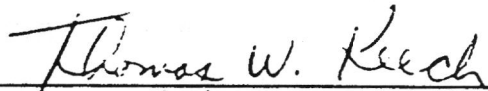
The Board disagrees with the Hearing Examiner, who found that the claimant committed gross misconduct when he "intentionally kept information back which he knew the employer would want to know and would want to take into account in deciding whether to employ him."

As long as the information which he does submit is truthful, a prospective employee has no obligation to offer additional information not requested by the employer. The claimant might have guessed that the employer would be interested in his criminal juvenile record. The best indications, however, of what information the employer is interested in, are the questions asked by the employer. The employer is in control of the information flow in this situation. If the employer does not ask a question, it cannot expect it to be answered. The Board perceives no misconduct in the claimant's failure to volunteer detrimental information about his past life.

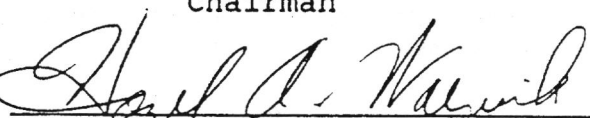
DECISION

The claimant was discharged, but not for any misconduct within the meaning of Section 6(c). No penalty is imposed under Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:HW
kbn
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