

# Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033



William Donald Schaefer, Governor

J. Randall Evans, Secretary

**BOARD OF APPEALS**

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

**— DECISION —**

Decision No.:	620-BR-89	
Date:	July 24 , 1989	
Claimant: Judith Chioli	Appeal No.:	8901310
	S. S. No.:	
Employer: Dart Drug/Fantle's Drugstores ATTN: Nancy Fink Employment Man	L. O. No.:	23
	Appellant:	EMPLOYER

Issue:

Whether the claimant was discharged for gross misconduct or misconduct, connected with her 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 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.

August 23, 1989

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.

The claimant in this case was aware that one specific job duty of her employment was to operate the drug counter cash register, including the ringing of sales when necessary. This duty was a part of the employer's written description of job duties, and the claimant was counseled on more than one occasion that there were times when this duty would be required of her.

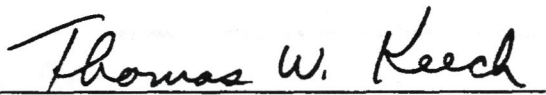
The claimant had refused in the past to ring up sales when required to do so. On November 1, 1988, this occurred again. On November 14, 1988, the employer called the claimant to a meeting and reminded her that occasional ringing up of sales was a mandatory part of her duties. The claimant insisted that she would never do it. Her reasoning was that this duty was beneath her occupational status and that, once she used the register once, the other employees would take advantage of her by expecting her to do it more often. The claimant was discharged for her refusal.

Whatever the claimant's view of the prerogatives of her occupational status, her job duties (of which she was aware or should have been aware at the time she took the job), required her to ring sales on the cash register on occasion. Her persistent refusal to do so in the face of warnings constitutes a deliberate refusal of a standard her employer had a right to expect, showing a gross indifference to her employer's interest. This is gross misconduct within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law.

#### DECISION

The claimant was discharged for gross misconduct, connected with her work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning November 13, 1988 and until she becomes re-employed, earns at least ten times her weekly benefit amount, and thereafter becomes unemployed through no fault of her own.

The decision of the Hearing Examiner is reversed.

  
Chairman

  
Associate Member

K:DW  
kbn

COPIES MAILED TO:

CLAIMANT

EMPLOYER

John G. Koenig, Jr., Esq.  
9123 Old Annapolis Road  
Columbia, MD 21045

UNEMPLOYMENT INSURANCE - ELLICOTT CITY

William Donald Schaefer  
Governor  
J. Randall Evans  
Secretary

1100 North Eutaw Street  
Baltimore, Maryland  
21201

# Maryland

## Department of Economic & Employment Development

### — DECISION —

Claimant: Judith A. Chioli  
Date: Mailed: March 20, 1989  
Appeal No.: 8901310-EP  
S.S. No.:  
Employer: Dart Drug Stores, Inc.  
L.O. No.: 23  
Appellant: Employer  
Issue: Whether the claimant was discharged for misconduct connected with the work within the meaning of Section 6(c) of the Law.

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### — 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 AT ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL

April 4, 1989

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

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### — APPEARANCES —

#### FOR THE CLAIMANT:

Judith A. Chioli - Claimant  
John G. Koenig, Jr. - Attorney

#### FOR THE EMPLOYER

Bob Roberts -  
District Manager and  
Roger Daugherty -  
Store Manager

### FINDINGS OF FACT

The claimant began working for the employer, the operator of a large chain of drug stores, as a full-time pharmacist sometime in April, 1986. Her last day of work was November 14, 1988, when she resigned her position in lieu of termination.

The testimony reveals that the claimant had told her store manager, just prior to her job separation, that she did not go to pharmacy school to operate a cash register. On several occasions,

a situation arose that there was no clerical help to operate the cash register and it was incumbent upon the pharmacist on duty to operate the register. The claimant found this very distasteful and it was interfering with the performance of her duties as a pharmacist. However, the position description of staff pharmacists indicates that the pharmacist is responsible for the operation of the drug counter cash register at times that may require the ringing of sales. The claimant was aware of this requirement and in refusing to operate the register on certain occasions was tantamount to insubordination.

CONCLUSIONS OF LAW

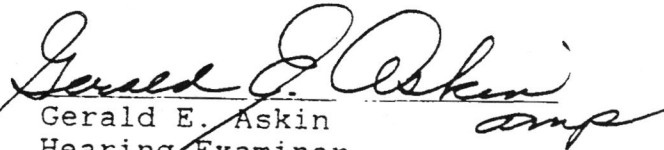
The non-monetary determination of the Claims Examiner that the claimant was discharged for misconduct connected with the work within the meaning of Section 6(c) of the Maryland Unemployment Insurance Law, is supported by the testimony of the claimant and the employer. The claimant's refusal to operate the employer's cash register on a when needed basis is insubordination and falls within the definition of misconduct. Even though the claimant submitted a written resignation, the written resignation was in lieu of termination, and thus, falls within the jurisdiction of Section 6(c) of the Maryland Unemployment Insurance Law. The Hearing Examiner does not agree with the employer's contention that the claimant's conduct falls within the definition of gross misconduct, as set forth in the Law. The determination of the Claims Examiner shall 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. Benefits are denied for the week beginning November 13, 1988 and the four weeks immediately following ending December 17, 1988.

The determination of the Claims Examiner is affirmed,

The Employer's Protest is denied.

  
Gerald E. Askin  
Hearing Examiner

Date of hearing: 3/14/89  
amp/Specialist ID: 13380  
Cassette No. 1903  
Copies mailed on March 20, 1989 to:

Claimant  
Employer  
Unemployment insurance - Ellicott City (MABS)

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Columbia, Maryland 21045