

In The Circuit Court for Baltimore City
CIVIL

In the Matter of

CHARLES WILLIAMS

VS

BOARD OF APPEALS DEPT. OF ECONOMIC AND
EMPLOYMENT DEV. STATE OF MARYLAND, ETAL

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420234

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CATEGORY APPAA

CASE NO. 90285042/CL120734

PAGE 1 of

PARTIES

ATTORNEY(S)

CHARLES WILLIAMS

PHYLLIS A. HOTCHKISS, ESQ. 911895

VS

BOARD OF APPEALS DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT STATE OF MARYLAND

AND

LOCKE INSULATORS, INC.

*Amey S. Scherr 911960
Lynn Weiskittel*

DATE	DOCKET ENTRIES	NO.
10/12/90	ORDER FOR APPEAL FROM THE DECISION OF BOARD OF APPEALS, DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, STATE OF MARYLAND AND PETITION (930-BR-90)	1
11/15/90	<i>Transcript of record (let C.T.F.)</i>	2
11/16/90	<i>Notices sent in accordance with Md Rule B-12</i>	B-12
11/16/90	<i>App. of Petition (Amey S. Scherr & Lynn Weiskittel) pl Dept. (The Board) same day summary.</i>	3
12/1/90	<i>App. Memorandum for</i>	4
11/10/91	<i>Dept. (Board of Appeals) memorandum</i>	5
2/13/91	<i>Case submitted to the court for determination without the aid of a jury (Hollander)</i>	
11	<i>Held sub cura (Hollander)</i>	
4-23-91	<i>Memorandum Opinion & Order filed; the decision of the Board is hereby "affirmed" - Costs to be paid by Appellant. (Hollander, J.)</i> <i>5 Close 7</i>	

CHARLES WILLIAMS	*	IN THE
	*	CIRCUIT COURT
v.	*	
BOARD OF ECONOMIC AND	*	FOR
EMPLOYMENT DEVELOPMENT	*	BALTIMORE CITY
and	*	Case No. 90285042/CL120734
LOCKE INSULATORS, INC.	*	
	*	
* * * * *		

MEMORANDUM OPINION AND ORDER

Hollander, J.

I. Introduction and Background

Charles Williams ("Williams") has appealed from the decision of the Board of Appeals (the "Board") of the Department of Economic and Employment Development (the "Department"), dated September 17, 1990. The Board affirmed the decision of the Hearing Examiner (R.59) finding that Williams was discharged for gross misconduct in connection with his work, within the meaning of Maryland Unemployment Insurance Law, Md. Ann. Code, Art. 95A,¹ Section 6(b). R.67.² Accordingly, the Board determined that Williams was not entitled to unemployment benefits.

1. Unless otherwise indicated, all statutory references are to Maryland Annotated Code, Art. 95A.

2. The letter "R" denotes reference to numbered items in the record.



II. Factual Summary

Williams was employed as an assembly worker by Locke Insulators, Inc. ("Locke" or "Employer"), from October 19, 1989 until May 21, 1990. R.2,8. He was a member of the United Electrical Workers Union, Local 120, which negotiated a contract with Locke, pursuant to which Williams was employed. The contract provided that Locke had the right to discharge any employee after four written warnings issued within a one year period.³ R.10, 46-47. Williams was discharged after receiving four warnings within a one year period. R.10,11,15,16,25. On August 18, 1989, he received a warning for absenteeism (R.11,52); on September 18, 1989, he received a warning for poor workmanship in regard to several items he assembled (R.15,53); on January 19, 1990, he received a warning for absenteeism and defective assembly (R.16,54); on May 21, 1990, he received another warning for absenteeism. R.25,57.

The record reflects various efforts on the part of Locke to avoid terminating Williams' employment. For example, on one occasion, rather than giving Williams another warning, he was sent home for improperly wearing the ear plugs required under MOSHA regulations.⁴ R.19-21. On a separate occasion, two warnings were combined into one (R.16,21) and a letter was sent to Williams warning him of the precariousness of his

3. Under the contract, warnings could be issued for various reasons including absenteeism, and violation of company rules, policies or practices. R.46-50.

4. "MOSHA" refers to the Maryland Occupational and Safety Hazards Administration.

employment. R.54. Appellant conceded that suspension was warranted after his third warning. Indeed, he acknowledged that "[i]t might have straightened [him] out." R.39.

It is undisputed that Williams was absent from work on the indicated occasions. R.36.⁵ At the hearing, Williams claimed that he was summoned to appear in court on one occasion, and had doctors' notes for the other absences. R.38. But William Hiel ("Hiel"), Locke's Employee Relations Manager, testified that the two absences in August, 1989 were not accompanied by doctors' notes. R.12. In contrast, when Williams provided Locke with a doctor's note, or other excuse, a notation to that effect was made on the warning notice. R.57. The warning notices for absences in weeks 50, 2, or 14 did not indicate that any excuse was offered by Williams.

Williams also was warned with respect to the quality of his work. The record is replete with testimony that Williams was trained to perform the work assigned, but that he neglected to satisfy Locke's minimum standards of performance. In rebuttal to Williams' assertions that he was inadequately trained to perform to Locke's standards, Hiel testified that Williams was on a progressive schedule. Accordingly, Williams was only expected to produce 80% of the established standard. Hiel indicated that the work related warning which Williams received was not the result of inadequate training. Rather, it

5. It is interesting to note that three of Williams' unexcused absences occurred on Fridays. Cf. Ellis v. Comwlth. Unemp. Comp. Bd. of Rev., 460 A.2d. 1240 (Pa. Cmwlth. 1983).

was due to Williams' attitude and performance. After conferring with Williams' foreman, Hiel believed that these attitude problems were attributable to Williams' expectation that he was only assigned temporarily to the particular work area.

The Hearing Examiner found that Williams had received four warnings within one year for various infractions, notably absenteeism and a violation of MOSHA regulations. In addition, the Hearing Examiner found that Williams was afforded two additional opportunities to improve his work. The Hearing Examiner concluded that Williams' conduct demonstrated a gross indifference to the Employer's interest and constituted gross misconduct. The Board affirmed the Hearing Examiner's decision without making any new findings of fact. The Board concluded that the Hearing Examiner's decision was in conformity with Maryland Unemployment Law. R.67. Accordingly, Williams was denied unemployment benefits.

III. Scope of Review

Code, Art. 95A, Section 7(h) governs the standards of judicial review in connection with the administrative adjudication of unemployment insurance benefits. It provides, in pertinent part, as follows:

In any judicial proceeding [in regard to claims for benefits], the findings of the Board of Appeals as to the facts, if supported by competent, material and substantial evidence in view of the entire record, and in the absence of fraud, shall be conclusive, and the jurisdiction of [the circuit court] shall be confined to questions of law.

Board of Educ., Mont. Co. v. Paynter, 303 Md. 22,34-35 (1985). See also, Board of Appeals v. City of Baltimore, 72 Md. App. 427, 431-32 (1987); Adams v. Cambridge Wire Cloth Co., 68 Md. App. 666, 673 (1986).

Section 7(h), and the case law interpreting it, make clear that "findings of fact made by the Board are binding upon the reviewing court, if supported by substantial evidence in the record." Board of Appeals, supra, 72 Md. App. at 431. See also, Allen v. Core Target City Youth Program, 275 Md. 69 (1975). Any inference to be drawn from the facts is also left to the agency. It is "the province of the agency to resolve conflicting evidence, but where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the inference." Baltimore Lutheran High School Assoc., Inc. v. Employment Sec. Admin., 302 Md. 649, 663 (1985).

The test is not how this court would resolve a factual dispute or questions of credibility. On review, this court may only determine "if, from the facts and permissible inferences in the record before the [Board], reasoning minds could reach the same result." Id. Consequently, this court may not reject the Board's decision if it is supported by substantial evidence, unless the decision is wrong as a matter of law. Adams, supra, 68 Md. at 673.

Decisions of administrative agencies are prima facie correct. On appeal, the agency's decision must be viewed in the light most favorable to the agency. Paynter, supra, 303 Md. at 35-36. See generally, Bulluck v. Pelham Woods Apts.,

283 Md. 505 (1978). Accordingly, "the reviewing court should not substitute its judgment for the expertise of those persons who constitute the administrative agency from which the appeal is taken. Paynter, supra, 303 Md. at 35 (emphasis in original).

III. Discussion

The Board's decision denying unemployment benefits is supported by substantial evidence and is correct as a matter of law. "Gross misconduct" is defined in Section 6(b) as:

[C]onduct of an employee which is (1) a deliberate and willful disregard of standards of behavior which an employer has a right to expect, showing a gross indifference to the employer's interest or (2) a series of repeated violations of employment rules proving that the employer has regularly and wantonly disregarded his obligations. Misconduct not falling within this definition shall not be considered gross misconduct.

The Hearing Examiner concluded that Williams' conduct satisfied both categories of Section 6(b). But she did not make findings as to the specific conduct on which she relied to disqualify Williams from receipt of benefits. It is apparent, however, from a review of the record, that the hearing Examiner's decision was based on a consideration of the totality of Williams' conduct from August, 1989 until May 21, 1990, the date he was discharged.

There is no bright line test to determine what constitutes deliberate and willful misconduct within the meaning of Section 6(b)(1). Employment Security Board of Maryland v. LeCates, 218 Md. 202 (1959). In LeCates, the Court noted that such a determination will vary with each particular case. What is required is

an utter disregard for the employee's duties and obligations to his employer and [conduct] calculated to disrupt the discipline and order requisite to the proper management and control of the company.

Id. at 210; Watkins v. Employment Security Administration, 266 Md. 223 (1972).

The Court of Appeals has held that chronic absenteeism in the face of warnings constitutes gross misconduct within the meaning of Sec. 6(b). In Watkins v. Employment Security Administration, 266 Md. 223 (1972), the Court found the employee to be guilty of misconduct and noted:

Absenteeism or tardiness is directly connected with an employee's work. Whether an employer may be able to have the absent employee's duties performed by others is simply not relevant to the issue whether, in the language of the act, there has been a 'deliberate and willful disregard of standards of behavior.' A disregard which is disruptive of discipline or destructive of morale may, in some circumstances, be as damaging as that which may be solely directed at interference with performance.

266 Md. at 228.

Appellant argues that the Employer's attendance policy failed to distinguish between absences due to medical reasons and those for which there was no legitimate excuse. He thus contends that legitimate absences do not amount to gross misconduct. In fact, Locke's attendance policy does distinguish between legitimate absences, which are not counted towards disciplinary action, and illegitimate absences. R.50. In any event, the record is clear that Williams was absent at least five times without any excuse or notification to his employer. "Even in a case in which an absence might otherwise

be justifiable due to illness, failure to abide by an employer's reasonable rule regarding the notice of that absence may constitute gross misconduct for which the award of unemployment insurance benefits is not proper." Painter v. Department of Employment and Training, 68 Md. App. 356 (1986).

A Pennsylvania court, applying a statutory scheme similar to that in Maryland, considered a situation much like that in the instant case. In Smeal v. Unemployment Com. Bd. of Rev., 197 Pa. Super. 555, (1962), the claimant was absent on numerous occasions because of either her own illness or the illnesses of her children. On three different occasions, she did not report her intended absences, as required by company regulations. As a result, she was dismissed for excessive absenteeism and found disqualified from receiving unemployment compensation benefits. The court said that, notwithstanding her illness and those of her children, there was no reasonable justification for the failure to give the notice required by the company regulations.

Applying the reasoning of Smeal here, there is substantial evidence in the record to support the finding that Williams voluntarily absented himself from work on numerous occasions, without notice to the Employer or justification. The absences alone, then, would constitute gross misconduct. The Board's decision, affirming the hearing examiner on this ground, is therefore correct as a matter of law.

As to the claim of poor work product, it is generally recognized that substandard work performance is not "misconduct" so as to disqualify an employee from receiving

unemployment insurance benefits, if it is the result of inability. A different result obtains, however, when a capable employee refuses to perform. An employee's refusal to apply himself where he is able can evidence an intentional and substantial disregard of the employer's interests. Rycraft v. United Technologies, 449 So. 2d. 282 (Fla. App. 1984).

Williams' testimony that he was never instructed on the proper use of the earplugs (R.36) was clearly unconvincing. Hiel testified that Williams absolutely should have known how to use the earplugs. Hiel also stated that Williams used the earplugs all of the time and that they are issued to employees with a picture demonstrating proper usage. R.40,41. As a result of Williams' failure to properly wear his earplugs, Locke was issued a citation by the MOSHA inspector, along with a \$750.00 fine. R.20. There was ample evidence in the record to show that Williams performed substandard work on two occasions, and failed to adhere to safety regulations on another occasion.

Williams was treated leniently by his supervisors, given numerous warnings regarding his misconduct and offered various opportunities to correct his conduct. In light of all of the facts, the record clearly supports the determination that Williams committed gross misconduct within the meaning of Section 6(b), by engaging in a course of conduct showing a general disregard of the Employer's interests. The Board's finding that Williams' conduct amounted to gross misconduct is supported by the record and applicable case law, and, accordingly, Williams was lawfully denied unemployment benefits.

Based on the foregoing, it is this 23rd day of April, 1991, by the Circuit Court for Baltimore City, ORDERED that the decision of the Board be, and the same hereby is, AFFIRMED.

Costs to be paid by Appellant.

Ellen L. Hollander
Ellen L. Hollander, Judge

cc: Amy S. Scherr, Esquire
Assistant Attorney General
Phyllis A. Hotchkiss, Esquire
Attorney for Appellant

PRESIDING JUDGE *Hollander*

COURTROOM CLERK

STENOGRAPHER

ASSIGNMENT FOR WEDNESDAY FEBRUARY 13, 1991

CASE NUMBER - 90285042
CASE TITLE - WILLIAMS VS BD. OF APPEALS, ETAL CL120734
CATEGORY - APPEAL FROM ADMINISTRATIVE AGENCY
PROCEEDING - COURT TRIAL - FAST TRACK

CL

*LOCKE INSULATORS INC
WEISKITTEL, LYNN
HOTCHKISS, PHYLLIS ANN

DEFENDANT
DEFENSE ATTORNEY 333-6943
PLAINTIFF ATTORNEY 532-3087

*Decision
Sub curia*

4/23/91

*Decision of the Board is Affirmed
Costs to be paid by the Appellant.*

TYPE OF PROCEEDING: (___) JURY (___) NON-JURY (___) OTHER

DISPOSITION (CHECK ONE)

- (___) SETTLED (___) CANNOT SETTLE (___) NEXT COURT DATE
- (___) VERDICT (___) REMANDED (___) NON PROS/DISMISSED
- (___) JUDGEMENT NISI (___) ORDER/DECREE SIGNED (___) OTHER
- (___) JUDGEMENT ABSOLUTE (___) ORDER/DECREE TO BE SIGNED PLEASE EXPLAIN:
- (___) POSTPONED (___) MOTION GRANTED
- () SUB CURIA (___) MOTION DENIED

JUDGE SIGNATURE *Allen Hollander* DATE *2/13/91*

FILED

JAN 10 1991

CIRCUIT COURT FOR BALTIMORE CITY

CHARLES WILLIAMS,
Appellant

* IN THE

CIRCUIT COURT

FOR

v.

LOCKE INSULATORS, INC.

* BALTIMORE CITY

and

* #90285042/CL120734

BOARD OF APPEALS,
DEPARTMENT OF ECONOMIC
AND EMPLOYMENT DEVELOPMENT,

*

*

Appellees

*

* * * * *

MEMORANDUM IN SUPPORT OF THE BOARD OF APPEALS

I. Introduction

The Board of Appeals of the Department of Economic and Employment Development (the "Board"), one of the Appellees herein, found that Charles Williams ("Williams"), Appellant, was not entitled to unemployment insurance benefits by a decision dated September 17, 1990. Based upon its review of the administrative record, the Board affirmed the decision of the Hearing Examiner finding that Williams was discharged from his employment with Locke Insulators, Inc. ("Locke"), an Appellee, for gross misconduct within the meaning of Maryland Annotated Code, Article 95A, §6(b).¹

Williams timely appealed that decision to this Court. The factual findings and conclusions made by the Hearing Examiner and adopted by the Board are supported by

¹Unless otherwise indicated, all statutory references are to Article 95A of the Maryland Annotated Code.

competent, material and substantial evidence in the administrative record. The Board made no errors of law and that, therefore, the Board's decision should be affirmed.

II. Scope of Review

Judicial review of the administrative adjudication of unemployment insurance appeals is governed by Maryland Annotated Code, Article 95A, §7(h). Findings of fact made by the Board are binding upon this court if there is substantial evidence in the record to support them. Section 7(h); Board of Education of Montgomery County v. Paynter, 303 Md. 22, 491 A.2d 1186 (1985); Allen v. Core Target City Youth Program, 275 Md. 68, 338 A.2d 237 (1975). This court may only determine if reasoning minds could reach the same conclusion from the facts and permissible inferences in the record before the Board. Baltimore Lutheran High School Association, Inc. v. Employment Security Administration, 302 Md. 649, 490 A.2d 701 (1985). If the Board's conclusions could be reached by reasoning minds, the decision is based upon substantial evidence and this court has no power to reject that conclusion. Paynter, 303 Md. at 35, 491 A.2d at 1193; Baltimore Lutheran High School, 302 Md. at 662, 490 A.2d at 707-708.

This Court must decide if there is substantial evidence to support the Board's findings. The determination of the credibility of witnesses' testimony is properly left to the agency. Board of Appeals, Department of Employment and Training v. Mayor and City Council of Baltimore, 72 Md. App.

427, 530 A.2d 763 (1987); Jacocks v. Montgomery County, 58 Md. App. 95, 472 A.2d 485 (1984).

When faced with conflicting inferences, ". . .it is for the referee to draw the inference, not the reviewing court." Paynter, 303 Md. at 36, 491 A.2d at 1195. "Furthermore, not only is it the province of the agency to resolve conflicting evidence, but where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the inference." Baltimore Lutheran High School, 302 Md. at 663, 490 A.2d at 708.

The administrative findings in this case are supported by competent, material and substantial evidence contained in the record submitted by the Board. Because no fraud has been alleged, the findings of fact are conclusive, and this court's jurisdiction is confined to questions of law. Section 7(h); Paynter, 303 Md. at 35, 491 A.2d at 1192.

III. The Board's decision to disqualify Williams from receiving unemployment benefits is supported by substantial evidence and is correct as a matter of law.

A. Statement of Facts

Williams was employed by Locke from October 19, 1988 until May 21, 1990 as an assembly worker (R. 2, 8).² Williams was employed full-time earning \$9.32 an hour. He was a member of the United Electrical Workers Union, Local

²The letter "R" refers to the handwritten, numbered pages of the administrative record submitted to this Court by the Board of Appeals.

120, which initiated a contract with Locke pursuant to which he was employed (R. 10).

Under the union contract, Locke had the right to discharge any employee after four written warnings for various enumerated reasons for minor offenses or for one continuing reason that had been issued within a one year period (R. 10, 46-47).

Williams was discharged after receiving four consecutive warnings within a one-year period (R. 10, 11, 15, 16, 25). Leading to his termination were four warnings over a period of eight months; on August 18, 1989 he received a warning for absenteeism for two days within a 13 week period (R. 11, 52); a warning on September 18, 1989 for poor workmanship regarding rejects in the number of pieces he assembled (R. 15, 53); he received a notice on January 18, 1990 which was a combined warning notice regarding absenteeism and defective assembly (R. 16, 54); and finally, he received notice on May 21, 1990 because he had 3 occurrences of absence within a 13 week period (R. 25, 57).

On May 21, 1990, rather than receiving a warning because of his precarious job status when Locke was cited by MOSHA and given a \$750.00 fine for Williams' failure to properly wear his ear plugs, he was sent home (R. 19-21). After three warnings in January, 1990, Hiel, the employer relations manager sent Williams a letter warning him of the precariousness of job position (R. 55).

Finally in May of 1990, as a result of Williams last course of absences for personal reasons, Hiel had no choice under the policy enumerated in the contract, but to terminate Williams' employment (R. 57). Based upon the testimony offered by Williams and the representatives of Locke, the Hearing Examiner believed that Williams was discharged under Locke's contract with the union that the basis for his discharge constituted gross misconduct within the meaning of §6(b) (R. 59-60). Based upon its review of the administrative record, the Board agreed (R. 68). It is from that decision that this appeal has been taken.

B. Williams was properly disqualified from receiving unemployment insurance benefits because he was discharged from his employment with Locke for gross misconduct connected with his work.

The Board found that Williams' was discharged from his employment with Locke for gross misconduct within the meaning of §6(b) which provides, in pertinent part:

. . .the term "gross misconduct" shall include conduct of an employee which is (1) a deliberate and willful disregard of standards of behavior, which his employer has a right to expect, showing a gross indifference to his employer's interest, or (2) a series of repeated violations of employment rules proving that the employee has regularly and wantonly disregarded his obligations.

The Board agreed with the Hearing Examiner that Williams' conduct met this definition of gross misconduct (R. 62).

The Maryland Court of Appeals has stated that there is no hard and fast rule to determine what constitutes

deliberate and willful conduct. Employment Security Board of Maryland v. LeCates, 218 Md. 202, 210, 145 A.2d 840, 844 (1959). Gross misconduct has been described as displaying ". . . an utter disregard for the employee's duties and obligations to his employer and . . . [conduct] calculated to disrupt the discipline and order requisite to the proper management and control of the company. . .". LeCates, 218 Md. at 210, 145 A.2d at 841; Watkins v. Employment Security Administration, 266 Md. 223, 292 A.2d 653 (1972).

This record reveals an experienced employee who was given repeated warnings and counseling by Locke in an effort to preserve the employment relationship. In this case, on at least two occasion Hiel declined to give Williams an official warning which could have resulted in his termination (R. 16, 21). Instead, he opted for combining two warnings into one and following up that action by a letter indicating the seriousness of Williams' employment with Locke (R. 54).

The testimonial and documentary evidence produced by Locke regarding the union contract terms as well as Williams prior absenteeism and lateness and as problems with productivity was supported by Williams' own testimony (R. 38-39). Williams agreed that he was aware of the terms of the union contract, but felt that he should have suspended after his third warning, and perhaps "It might have straightened me out" (R. 39). He did agree that Locke did not, in any way, condone his behavior (Id.).

The Court of Appeals of Maryland has held that chronic absenteeism that continues in the face of warnings constitutes gross misconduct within the meaning of §6(b). In Watkins v. Employment Security Administration, 266 Md. 223, 292 A.2d 653 (1972), the Court found gross misconduct and stated:

Absenteeism or tardiness is directly connected with an employee's work. Whether an employer may be able to have the absent employee's duties performed by others is simply not relevant to the issue whether, in the language of the act, there has been 'deliberate and willful disregard of standards of behavior. . .'. A disregard which is disruptive of discipline or destructive of morale may, in some circumstances, be as damaging as that which may be solely directed at interference with performance. 292 A.2d 65.

Even in a case in which an absence might otherwise be justifiable due to illness, failure to abide by an employer's reasonable rule regarding the notice of that absence or the reporting of a significant change in or recovery from the illness may constitute gross misconduct which is not compensable with unemployment insurance benefits. Painter v. Department of Employment and Training, 68 Md. App. 356, 511 A.2d 585 (1986).

The Board made no error of law. The issue was approached in light of the applicable statute, §6(b). The Board recognized the relevant statutory criteria for disqualification, namely, that the conduct was a series of events which showed a gross indifference to the employer's interests and that the rules violated were reasonable rules.

The Board comprehended the legal substance of the appropriate test and did not misapply its precepts to the facts. The Board was not erroneous in the conclusion that Williams' conduct constitutes gross misconduct.

Unemployment insurance benefits are intended for persons who are unemployed through no fault of their own. Section 2. In the present case, it was Williams' blatant disregard of reasonable rules, his repeated violations of the employer's policy, after written and verbal warnings, that led to his discharge. Thus, he is not one that the statute was designed to compensate. The Board acted properly in disqualifying him from the receipt of benefits.

IV. Conclusion

Based upon the foregoing and the record as a whole, the Board's decision is correct as a matter of law and should be affirmed.

Respectfully submitted,

J. JOSEPH CURRAN. JR.
Attorney General of Maryland

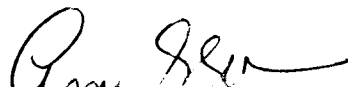


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of January, 1991 a copy of the foregoing Memorandum in Support of the Board of Appeals was mailed, postage prepaid, to Phyllis A.

Hotchkiss, Esquire, Suite 5, 5900 York Road, Baltimore,
Maryland 21212.


AMY S. SCHERR

CHARLES WILLIAMS

vs.

LOCKE INSULATORS, INC.

and

BOARD OF APPEALS

Department of Economic and

Employment Development

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IN THE
CIRCUIT COURT
FOR
BALTIMORE CITY
Case No. 90285042/CL120734

FILED
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CIRCUIT COURT FOR
BALTIMORE CITY

* * * * *

MEMORANDUM IN SUPPORT OF APPELLANT'S PETITION

NOW COMES the Appellant, Charles Williams, by his attorney Phyllis A. Hotchkiss, Esquire and presents unto this Honorable Court his memorandum as required by Maryland Rule B12 and says:

ISSUE: Whether the Board of Appeals, when adopting the reasoning and decision of the Hearing Examiner, erred in it's interpretation of the meaning of gross misconduct within Section 6(b) of the Maryland Unemployment Insurance Law as per prior cases when it disqualified the appellant from receiving unemployment benefits.

ARGUMENT: The appellant was employed by Locke Insulators, Inc. He is a member of the United Electrical Workers Union, Local 120. The union and management have a negotiated agreement whereby the employer has the right to discharge an employee after receiving four written warnings for whatever reason within a one year period. This right to discharge is not the same as "gross misconduct". "Gross misconduct" as defined by Article 95A Section 6(b) and case law must be found to disqualify the appellant from receiving unemployment benefits.

Article 95A Section 6(b) states "For the purposes of this article, the term "gross

misconduct" shall include conduct of an employee which is (1) a deliberate and willful disregard of standards of behavior, which his employer has a right to expect, showing a gross indifference to the employer's interest, or (2) a series of repeated violations of employment rules proving that the employee has regularly and wantonly disregarded his obligations. Misconduct not falling within this definition shall not be considered gross misconduct. (Emphasis added).

The Board of Appeals' finding of gross misconduct was based upon the appellant receiving warnings due to absences from work, inadequate job performance including inefficiency or incompetence, and incorrect use of ear protection devices.

A violation of an Employer's absenteeism policy is not misconduct per se where the policy does not distinguish between absences which occurred because of legitimate medical reasons and absences for which there was no legitimate excuse. Randall v. Nationwide Mutual Life Insurance Company, 1641-BR-82. Locke Insulators, as per testimony and their definition of absence and its application to their progressive discipline/warning procedure does not distinguish between legitimate medical absences and absence with no legitimate excuse (pgs 16, 42, 43, 44). Three of the five warnings received by the appellant were for medically verified illnesses (pgs 25, 38, 52, 54, 57). Appellant provided verification in the form of doctor's notes which were given to the employer and are no longer in the appellant's possession (pg 38). In the case of Dawson v. Allied Chemicals, 612-BR-83, where the company had a policy that absences due to illness was not excusable, the Board of Appeals ruled that absences due to illness are not misconduct. Also in Randall v. Nationwide Mutual Insurance, 1641-BR-82, where the claimant was discharged for four absences caused by medically verifiable illness as a result of the employer's policy mandating termination for three absences, the Board held that the absences were due to illness and therefore did not constitute misconduct. Therefore, the Board erred in using the warnings involving absences due to illness as elements in its finding of gross misconduct.

The employer, as a basis for its warning on May 21, 1990 cites as absence on 2/22/90 (court), 2/27/90 (mandatory - office of probation) and 4/6/90 (court) (pgs 25, 57, 38). Locke Insulators Wage Management Instructions/ Attendance Control Procedures specifically excludes court appearances as absences for which discipline is received (pg 50). Therefore, the Board erred in using the warning of May 21, 1990 as an element in its finding of gross misconduct.

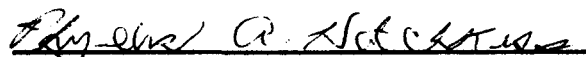
The appellant received warnings on September 18, 1990 for substandard quantity output (pg 53) and on January 18, 1990 for defective workmanship (pg 54). Inadequate job performance based on inefficiency or incompetency is not gross misconduct. In Chambers v. J.P. Mancini, Inc. 408-BR-84, the Board held that in order for misconduct to be proven, there must be something more than proving of mere substandard performance. Where no linkage is shown between claimant's substandard performance and any misconduct or negligence, a finding of gross misconduct is not supported. In the case at bar, there is no testimony supporting misconduct or negligence relative to the appellants workmanship. Also, in the cases of Aebaugh v. The Good Samaritan Hospital, 186-BH-83, and Raffaëlle v. Mayor's Office, 184-BH-84, where the claimant's errors and mistakes were attributable to a lack of competence, skill and experience, the Board held that the inability to do ones job is not gross misconduct. Therefore, the Board erred when it considered the two warnings concerning workmanship in its decision to find gross misconduct in this case.

When finding gross misconduct, the Hearing Examiner, whose reasoning and decision was adopted by the Board stated "The most serious infraction occurred on March 21, 1990, when a MSHA inspector cited the employer and the claimant because the claimant was observed improperly wearing ear plugs..." (pg 63). Mr. Heil, of Locke Insulators, testified that his intention was not to issue a warning notice as a result of this incident. Mr. Heil explained that in

good faith he would not issue the warning notice because upon his return to the department he observed "another individual without his earplugs in. I didn't think at that time maybe it was strictly fair to this individual [the appellant] [to] single him out". (pg 21) The appellant, who was wearing his ear plugs, was not acting deliberate, wanton or willful when his ear plugs were inserted incorrectly. The employer accepted more grievous behavior by another employee. The Board erred in it's decision to consider this incident in it's finding of gross misconduct based upon the employers own acts and admissions.

CONCLUSION: The employer's policy of termination after four warnings is not equivalent to a finding of gross misconduct necessary to disqualify the appellant from receiving benefits. After a careful review of the applicable case law and its application to the testimony upon which the Hearing Examiner and Board relied, it is clear that the appellant's conduct was not a deliberate and willful disregard of standards of behavior or regular and wanton disregard of his obligations; therefore the appellant did not exhibit gross misconduct as defined by Section 6(b) and should not be disqualified from receiving his unemployment benefit.

Respectfully submitted,



Phyllis A. Hotchkiss, Esquire
5900 York Road, Suite 5
Baltimore, Maryland 21212
(301) 828-6366
Attorney for the Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of December, 1990, a copy of the foregoing Memorandum In Support of Appellant's Petition was mailed to J. Joseph Curran, Jr, Lynn Weiskittel and Amy Scherr, Office of the Attorney General, State of Maryland Department of Economic and Employment Development, 217 East Redwood Street, Room 1101, Baltimore, Maryland 21202.

Phyllis A. Hotchkiss
Phyllis A. Hotchkiss, Esquire

FILED

NOV 16 1990

CHARLES WILLIAMS

vs.

LOCKE INSULATORS, INC.

and

BOARD OF APPEALS
Department of Economic and
Employment Development

* IN THE
* CIRCUIT COURT FOR BALTIMORE CITY
* FOR
* BALTIMORE CITY
* #90285042/CL120734
*
*

A N S W E R

The Board of Appeals, Department of Economic and Employment Development, in response to Appellant's Petition states:

1. That it denies the allegation in said Petition.
2. That pursuant to Section 7(h), Article 95A, Maryland Annotated Code, the jurisdiction of the court is confined to questions of law, and this is not a trial de novo.
3. That the findings of the Board of Appeals are supported by competent, material and substantial evidence and, there being no allegation of fraud, in accordance with Section 7(h), supra, such findings are conclusive.

WHEREFORE, the Board of Appeals prays that its decision be affirmed.

Respectfully submitted,

J. JOSEPH CURRAN, JR.
Attorney General of Maryland


Amy S. Scherr
Assistant Attorney General

Lynn Weiskittel (as)

Lynn Weiskittel
Assistant Attorney General
217 East Redwood Street
11th Floor
Baltimore, Maryland 21202
Telephone: (301) 333-4813

CERTIFICATE OF COMPLIANCE

Appellee, Board of Appeals, Department of Economic and Employment Development by its attorney Amy S. Scherr and pursuant to Maryland Rule B2 d, hereby certifies that a written notice of Appellant's appeal, a copy of the appeal, and a copy of the petition were mailed, postage prepaid, to Locke Insulators, Inc., 2525 Insulator Drive, Baltimore, MD 21230.

Respectfully submitted,

Amy S. Scherr

Amy S. Scherr
Assistant Attorney General

CERTIFICATE OF SERVICE

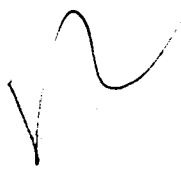
I HEREBY CERTIFY that on this 14th day of November, 1990, I mailed a copy of the foregoing Answer to Phyllis A. Hotchkiss, Attorney for Appellant, 5900 York Road, Suite 5, Baltimore, MD 21212 and to Locke Insulators, Inc., 2525 Insulator Drive, Baltimore, MD 21230, coAppellee herein.

Amy S. Scherr

Amy S. Scherr

PHYLLIS A. HOTCHKISS, ESQUIRE
5900 YORK RD, SUITE 5
BALTIMORE, MD. 21212

AMY S. SCHERR
ASSISTANT ATTORNEY GENERAL
217 E. REDWOOD ST. ROOM 1101
BALTIMORE, MD. 21202



NOTICE SENT IN ACCORDANCE WITH MARYLAND RULE B-12

CHARLES WILLIAMS

Docket:

vs.

Folio:

BRD. OF APPEALS DPT. OF ECONOMIC & EMPLOYMENT DEVELOPMENT STATE OF MARYLAND

File: 90285042/CL120734

Date of Notice: 11/20/90

STATE OF MARYLAND, ss:

I HEREBY CERTIFY, That on the 15TH day of NOVEMBER
Nineteen Hundred and NINETY, I received from the Administrative
Agency, the record, in the above captioned case.

SAUNDRA E. BANKS, Clerk
Circuit Court for Baltimore City

CC-39

NOTICE SENT IN ACCORDANCE WITH MARYLAND RULE B-12

CHARLES WILLIAMS

Docket:

vs.

Folio:

BOARD OF APPEALS DPT OF ECONOMIC & EMPLOYMENT DEVELOPMENT STATE OF MARYLAND, et al

File: 90285042/CL120734

Date of Notice: 11/20/90

STATE OF MARYLAND, ss:

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Nineteen Hundred and NINETY, I received from the Administrative
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SAUNDRA E. BANKS, Clerk
Circuit Court for Baltimore City

CC-39

J. JOSEPH CURRAN, JR.
Attorney General
JUDSON P. GARRETT, JR.
DENNIS M. SWEENEY
Deputy Attorneys General
NORMAN E. PARKER, JR.
Assistant Attorney General
Counsel to the Department
LAILA K. ATALLAH
Assistant Attorney General
Deputy Counsel to the Department

OFFICES OF
THE ATTORNEY GENERAL



AMY S. SCHERR
BARBARA G. SWAIN
BARBARA CURNIN KOUNTZ
ELIZABETH S. ROESE
LYNN M. WEISKITTEL
JAMES G. DAVIS
SHEILA McDONALD GILL
ILENE S. GARTEN
ANITA E. HILSON
Assistant Attorneys General
(301) 333-4813
Fax: (301) 333-8298

STATE OF MARYLAND
DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT
217 EAST REDWOOD STREET - ROOM 1101
BALTIMORE, MARYLAND 21202

FILED
November 15, 1990

NOV 15 1990

Charles Williams
c/o Phyllis Hotchkiss, Esquire
5900 York Road
Suite 5
Baltimore, MD 21212

CIRCUIT COURT FOR
BALTIMORE CITY

Re: #90285042/CL120734

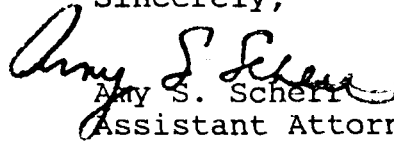
Dear Mr. Williams:

Enclosed is a copy of the administrative record before the Board of Appeals in the above-captioned appeal. This record has been filed with the Clerk of the Circuit Court for Baltimore City.

Maryland Rule B12 requires that you file with the Court a Memorandum setting forth a concise statement of the issues raised by your appeal and legal arguments in support of your position, referencing the enclosed record. The rule provides a thirty (30) day period for filing the Memorandum. The period begins when you receive notification from the Clerk of the Court that the record has been filed. A copy of the Memorandum you filed with the Clerk of the Court must be sent to this office.

Please be further advised that unless a memorandum is filed with the Court in accordance with Rule B12, the Board of Appeals will file a Motion to Dismiss your appeal.

Sincerely,


Amy S. Scherr

Assistant Attorney General

AS:dw
Enclosures

cc: Sandra E. Banks, Clerk
Locke Insulator, Inc.

P.S. - Clerk: Please file the original Administrative Record attached hereto.

AN EQUAL OPPORTUNITY EMPLOYER

Rule B12. Memoranda.

Within 30 days after being notified by the clerk of the filing of the record, the appellant shall file a memorandum setting forth a concise statement of all issues raised on appeal and argument on each issue, including citations of legal authorities and references to pages of the transcript and exhibits relied on. Within 30 days thereafter any other party desiring to be heard, including the appropriate agency when entitled by law to be a party to the appeal, shall file an answering memorandum in the same form. The appellant may file a reply memorandum within 15 days after the filing of any answering memorandum. This Rule shall not apply to appeals from the Workmen's Compensation Commission.

(Added Oct. 1, 1980, effective Jan. 1, 1981.)

CHARLES WILLIAMS

vs.

LOCKE INSULATORS, INC.

and

BOARD OF APPEALS
Department of Economic and
Employment Development

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* #90285042/CL120734
*
*

RECORD BEFORE THE

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

BOARD OF APPEALS



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) 333-5033

CHARLES WILLIAMS

vs.

LOCKE INSULATORS, INC.

and

BOARD OF APPEALS
Department of Economic and
Employment Development

: RECORD BEFORE THE
:
: DEPARTMENT OF
:
: ECONOMIC AND EMPLOYMENT
:
: DEVELOPMENT
:
: APPEAL NO. 9008848

THIS IS TO CERTIFY that the following is a true copy, to the best of our knowledge, of all documents and papers, and transcript of all testimony taken in the matter, together with findings of fact and decision therein, this 15th day November, 1990.

STATE OF MARYLAND
DEPARTMENT OF ECONOMIC & EMPLOYMENT DEVELOPMENT

BY:



Paul G. Zimmermann, Appeals Counsel
BOARD OF APPEALS

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STATE OF MARYLAND
DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT
OFFICE OF UNEMPLOYMENT INSURANCE

FACT FINDING REPORT

Date Conducted _____ Unresolved Issue (HO2)
Claimant's Name Charles Williams Create and Resolve Issue (HO3)
Social Security Number 219 66 9622 Redetermination/Corrected Determination (HO5)
Issue: _____ Discharge or Suspension From Work

CLAIMANT'S STATEMENT

Claimant present? YES NO If no, how contacted? _____
Name of employer: Locke Insulators Name of immediate supervisor: Calvin Wilkins
FDW: 9/9/88 LDW: 7/2/90 Rate of Pay: 9.31/hr Type of Work: assembly
Name and title of person who notified you of your discharge: Calvin Wilkins supervisor
What reason were you given for your discharge? because of missing time

Did you agree with this reason? YES NO If no, explain: I was out 5/14 & 15 due to having got I was under doctor care & had a doctors note for this time. The prior absence was on 2/2/90 for court I was summoned to

In relation to the reason for discharge, did you receive any:
verbal warnings? YES NO How many? 1 Date of most recent warning: 2/90
written warnings? YES NO How many? 1/2 Date of most recent warning: _____
suspensions from work? YES NO How many? _____ Date of most recent suspension: _____

Did you protest your discharge? YES NO
Additional information: Observe in court & had should work the summons & asked in advance for the time off. Company policy is that you are only allowed to have one occurrence within a 13 week penalty. I have tried a grievance with the union and am waiting to see what happens.

Are you able, available and actively seeking full-time work? YES NO If no, explain: _____

CLAIMANT'S REBUTTAL: The warnings I received in 89 were given to me at the same time & Rede frontley supervisor. Inform ed me he was going to take these off my record since I wasn't trained properly & I was transferring to another department

I have read and hereby affirm under penalties of perjury that the foregoing information is true and correct to the best of my knowledge, information and belief.
Claimant's Signature: Charles A. Williams 01

FACT FINDING REPORT

EMPLOYER'S STATEMENT

Name of employer/company: Locke Insulators Inc Employer present? YES NO

Separation notice received: 1/83 207 Employer letter Other

LDW: 5/21/90 Reason for separation from above: discharged gross misconduct
violating notice procedure 2/11/89 absence (2) 9/18/89 unsafe factory work
po. for absence (2) 11/8/90 absence (4) 5/21/90 absence

Employer contacted by phone? YES NO Telephone Number: 347 1970

Name of company officer: Mr. Hiei Position/title: emp. rel. mg.

Claimant present when telephone information was received? YES NO

Was the claimant discharged for a violation of written company policy? YES NO If yes, specify: _____

In relation to the reason for discharge, was the claimant:

warned verbally? YES NO How many times? _____ Dates of warnings: _____

warned in writing? YES NO How many times? _____ Dates of warnings: _____

suspended from work? YES NO How many times? _____ Dates of suspensions: _____

Additional information:

the union contract states anyone who receives 4 warning notices in one yr
period is automatically grounds for dismissal he received 4 & actually should
have gotten 6

last occurrence was 5/10/90 had 4 hr excuse for absence
4/6/90 no idea why he was out, 2/22/90 court appearance, 2/27/90
had to see probation officer

If the reason for discharge was absenteeism or lateness:

Number of days absent: _____ Dates: 5/10-15/90 4/6/90 2/22/90 2/27/90

Number of days late: _____ Dates: _____

Was the company properly notified of the absences/lateness? YES NO

Was medical certification provided if requested? YES NO If no, explain: _____

Were the absences/lateness authorized? YES NO

ADDITIONAL INFORMATION

on 2/27/90 should have received another written warning for not wearing
ear protectors which OSHA fined us for but he did receive 1/2 day off

5/21/90

BENEFIT DETERMINATION

SSN 219 66 9682 0 Name Check 0 WIK

Sequence Number: 01 Issue Code 50 Program: 00 Java:

Resolution Code: 50 Penalty? Count? 4 Time Lapse:

Statement Number: 0507 Text Date 05/21/90 Examiner ID: 02416

Employer Number: 39099756 Non-Charge? Non-Charge Start Date: _____

Start Date: _____ Disq. Weeks: _____ OP Source: _____ OP Fault: _____

Redet/Corr. Det. Reason:

Date Completed 6/2/90 Claims Examiner: Carol Swain

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

OFFICE OF UNEMPLOYMENT INSURANCE
STATE OF MARYLAND P.O. BOX 17153 BALTIMORE, MARYLAND 21203

REQUEST FOR SEPARATION INFORMATION

RETURN TO LOCAL OFFICE

The claimant whose name is shown below has filed a claim for Unemployment Insurance Benefits. Our records indicate that the claimant worked for you. Please answer the questions below, sign and mail one copy of this form in the enclosed envelope by the due date. A penalty of \$15 will be assessed if this form is returned late. NOTE: The law provides penalties for false statements.

SOCIAL SECURITY NO 219-66-9682	EMPLOYEE'S INITIALS AND LAST NAME C A WILLIAMS	OTHER LAST NAME	EMPLOYER ACCOUNT NO 39099756	EFFECTIVE DATE OF CLAIM 06/10/90	RUN DATE 06/15/90	DUE DATE 06/25/90
--	--	-----------------	--	--	-----------------------------	-----------------------------

REASON FOR SEPARATION

1. LAYOFF (10 WEEKS OR LESS) (97) EXPECTED DATE OF RETURN _____
2. LACK OF WORK (99) 3. QUIT (30)
4. DISCHARGED (50) 5. VACATION SHUT DOWN (28) START DATE _____ END DATE _____
6. SCHOOL VACATION (22) Does claimant have a written, verbal or implied understanding that he/she will be returning to substantially the same or a better position when school resumes? Yes No
7. LABOR DISPUTE (26) 8. OTHER

CLAIMANT'S FIRST DAY OF WORK

MO **10** DAY **19** YEAR **88**

CLAIMANT'S LAST DAY OF WORK

MO **05** DAY **21** YEAR **90**

APPLICABLE TO WAGE TRANSFER IF YOUR FORMER EMPLOYER HAS FILED A CLAIM FOR UNEMPLOYMENT BENEFITS IN ANOTHER STATE AS A RESULT OF BEING TRANSFERRED OUT OF STATE MD HAS NO JURISDICTION OVER THIS CLAIM. YOUR ACCOUNT MAY BE CHARGED FOR BENEFITS PAID

NOTE: If the separation information you give on this notice differs substantially from that given by your former employer, you may be requested to attend a Pre-determination or Pre-termination Hearing for resolution of this dispute. The decision rendered may result in a claim for benefits paid the claimant.

Gross Misconduct - Warning Notice Procedure
 ① 8-18-89 Absenteeism ② 9-18-89 Unsatisfactory Work Performance
 PERIOD SINCE THE LAST DAY WORKED HAS THE CLAIMANT OR WILL HE/SHE RECEIVE
 ③ 1-18-90 Absenteeism ④ 5-21-90 Absenteeism

1. PENSION, OR ANY OTHER RETIREMENT PAYMENT? PER MONTH \$ _____ EFFECTIVE DATE _____	4. SEVERANCE PAY \$ _____ DATE PAID _____
LUMP SUM \$ _____ DATE PAID _____	5. VACATION PAY \$ _____ DATE PAID _____
DID THE CLAIMANT CONTRIBUTE <input type="checkbox"/> YES <input type="checkbox"/> NO	6. HOLIDAY PAY \$ _____ DATE PAID _____
2. PROFIT SHARING AMT \$ _____ DATE PAID _____	
3. BONUS OR SPECIAL PAYMENT \$ _____ DATE PAID _____	

EMPLOYER
LOCKE INSULATORS INC
2525 INSULATOR DR
BALTO MD 21230-0000
 RETURN TO LOCAL OFFICE # **02**
DEED/OFFICE OF UNEMPLOYMENT INS.
GLEN BURNIE LOCAL OFFICE
P. O. BOX 284
GLEN BURNIE, MD 21061

CLAIMANT'S WEEKLY WAGE 360.92	CLAIMANT'S HOURLY RATE 9.023	DID THE CLAIMANT WORK ALL AVAILABLE HOURS DURING THE CALENDAR WEEK WHICH INCLUDES THE LAST DAY OF WORK? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF NO, EXPLAIN See above
TRADE NAME OF EMPLOYER Locke Insulators		ENTER THE AMOUNT OF THE CLAIMANT'S EARNINGS FOR THE CALENDAR WEEK WHICH INCLUDES THE LAST DAY OF WORK \$ 433.10

NOTE: CALENDAR WEEK BEGINS SUNDAY, ENDS SATURDAY

SIGNATURE OF OFFICIAL *Raymond Novak* TITLE *Payroll Clerk*
 DATE *6-21-90* TELEPHONE NO *347-1970*

*SEE LOCAL OFFICE INFORMATION ON REVERSE SIDE
DEED OUI 207 (Revised 1/88) (MABS) SIDE 1

02

NOTICE TO APPEALS DIVISION OF LOWER APPEAL

SSN: 219 66 9682 DATE RECEIVED/TAKEN BY LO: 07/05/90 ENTRY DATE: 07/05/90

LO: 02 PROGRAM TYPE: 00 BYB: 06/10/90 SPECIALIST ID: 02416

DATE OF APPEAL: 07/05/90 APPEAL DEADLINE: 07/11/90 TIMELY APPEAL? Y

LATE APPEAL REASON:

APPELLANT: EMPLOYER MULTIPLE APPEALS? N TYPE OF APPEAL: INTRASTATE

ISSUE: DISCHARGED FROM EMPLOYMENT WBA: \$181.00

COMMENTS: NOTE EMPLOYER CLOSED 7-23THRU8-5-90 DO NOT SCHEDULE

CLAIMANT: CHARLES A WILLIAMS TELEPHONE: 301 727 5311
ADDRESS: 1518 BELT STREET

BALTIMORE MD 21230-0000

EMPLOYER: LOCKE INSULATORS INC TELEPHONE: 301 752 8020
ADDRESS:

2525 INSULATOR DR
BALTO MD 21230-0000

REPRESENTATIVE:
REPRESENTATIVE ADDRESS:
REPRESENTATIVE TELEPHONE:

88-18 EP

BENEFIT DETERMINATION

THE CLAIMANT WAS DISCHARGED OR SUSPENDED AS A DISCIPLINARY MEASURE BY THE EMPLOYER, LOCKE INSULATORS INC ON 05/21/90 BECAUSE OF EXCESSIVE ABSENTEEISM. INFORMATION HAS BEEN PRESENTED, HOWEVER, SHOWING THAT THE CLAIMANT'S ABSENCES WERE OF A COMPELLING AND NECESSITOUS NATURE. AS A RESULT, THE CIRCUMSTANCES SURROUNDING THE SEPARATION DO NOT WARRANT A DISQUALIFICATION UNDER SECTION 5(B) OR 6(C) OF THE MARYLAND UNEMPLOYMENT INSURANCE LAW.

Hold 10⁰⁰
JUL 18 1990

- (X) BENEFITS ARE ALLOWED.
- () BENEFITS ARE DENIED WEEK BEGINNING _____ AND FOR THE _____ WEEKS ENDING _____
- () BENEFITS ARE DENIED WEEK BEGINNING _____ AND UNTIL THE CLAIMANT BECOMES REEMPLOYED AND EARNS AT LEAST TEN (10) TIMES HIS/HER WBA
- () BENEFITS ARE DENIED WEEK FROM _____ TO _____
- () BENEFITS ARE DENIED WEEK BEGINNING _____ UNTIL MEETING REQUIREMENTS OF THE LAW.
- () AS A RESULT OF THIS DETERMINATION, THE CLAIMANT IS FOUND TO HAVE RECEIVED BENEFITS FOR WHICH HE/SHE WAS INELIGIBLE. THIS CREATES AN OVERPAYMENT TOTALLING _____ WHICH MUST BE REPAID.

03

LOCKE[®]
INSULATORS

*Io1
ErT
7-5-90
20*

July 2, 1990

RECEIVED
JUL 5 1990
GLEN BURNIE
OFFICE

State of Maryland
Department of Economic and Employment Development
Office of Unemployment Insurance
Glen Burnie Local Office
P.O. Box 284
Glen Burnie, Maryland 21061

Re: Charles A. Williams

To Whom It May Concern:

On behalf of Locke Insulators, Inc. I am formally requesting an appeals hearing concerning the award given to our former employee Charles A. Williams, (SS# 219-66-9682) on June 26, 1990 by Specialist I.D. 02416.

Our plant will be closed down from ~~July~~ July 23, 1990 thru August 5, 1990 for our vacation period.

Respectfully,

W.F. Hiel

W.F. Hiel
Employee Relations Manager

WFH/bk

04

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

STATE OF MARYLAND
APPEALS DIVISION - ROOM 511
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
333-5040
OUTSIDE OF BALTIMORE: 1-800-492-2137

APPEAL HEARING NOTICE

Claimant's Name	Employer's Name	Date Mailed	Appeal No.	SS No.
CHARLES A WILLIAMS	LOCKE INSULATORS INC.	07/06/90	9008848	219-66-9682

Appellant: **EMPLOYER**

Local Office No. **002**

A hearing on this appeal will be held before the Hearing Examiner on **JULY, 18 1990** at **10:00 A.M. EDT** (Please be on time)
JULY, (EIGHTEENTH) 1990

HEARING LOCATION

**GLEN BURNIE U.I. OFFICE
7500 RITCHIE HIGHWAY RM 305
GLEN BURNIE, MD 21061**

Hearing Examiner:

JUDY-LYNN GOLDENBERG

Mail To:

**CHARLES A WILLIAMS
1518 BELT STREET
BALTIMORE, MD 21230**

NOTICE TO PARTIES: If you have already received benefits, a partial or total disqualification may be imposed by the Hearing Examiner. If this occurs, you may be required to pay back some or all of the benefits received.

THIS HEARING IS THE LAST STEP AT WHICH EITHER THE CLAIMANT OR THE EMPLOYER HAS THE ABSOLUTE RIGHT TO PRESENT EVIDENCE. THE DECISION WILL BE MADE ON THE EVIDENCE PRESENTED. THE DECISION WILL AFFECT THE CLAIMANT'S CLAIM FOR BENEFITS, AND IT MAY AFFECT THE EMPLOYER'S CONTRIBUTION TAX RATE OR REIMBURSEMENT ACCOUNT.

WHETHER THE CLAIMANT IS ABLE, AVAILABLE AND ACTIVELY SEEKING WORK WITHIN THE MEANING OF SECTION 4(C) OF THE LAW IS ALWAYS AN ISSUE THAT MAY BE RULED ON BY THE HEARING EXAMINER.

See the other side of this notice for important information.

PLEASE BRING THIS NOTICE WITH YOU.

Issue:

WHETHER THE CLAIMANT WAS SUSPENDED OR DISCHARGED FOR MISCONDUCT, OR GROSS MISCONDUCT, WITHIN THE MEANING OF SECTION 6(B) OR 6(C) OF THE LAW. (SECTION 6(A) MAY ALSO APPLY. SEE OTHER SIDE FOR SECTION 6 ISSUES.)

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

STATE OF MARYLAND
APPEALS DIVISION - ROOM 511
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
333-5040

OUTSIDE OF BALTIMORE: 1-800-492-2137

APPEAL HEARING NOTICE

Claimant's Name	Employer's Name	Date Mailed	Appeal No.	SS No.
CHARLES A WILLIAMS	LOCKE INSULATORS INC.	07/06/90	9008848	219-66-9682

Appellant: EMPLOYER

Local Office No. 002

A hearing on this appeal will be held before the Hearing Examiner on JULY, 18 1990 at 10:00 A.M. EDT (Please be on time)
JULY, (EIGHTEENTH) 1990

HEARING LOCATION
GLEN BURNIE U.I. OFFICE
7500 RITCHIE HIGHWAY RM 305
GLEN BURNIE, MD 21061

Hearing Examiner:

JUDY-LYNN GOLDENBERG

Mail To:
LOCKE INSULATORS INC.
2525 INSULATOR DRIVE
BALTIMORE, MD 21230

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See the other side of this notice for important information.

PLEASE BRING THIS NOTICE WITH YOU.

Issue:

06
WHETHER THE CLAIMANT WAS SUSPENDED OR DISCHARGED FOR MISCONDUCT, OR GROSS MISCONDUCT, WITHIN THE MEANING OF SECTION 6(B) OR 6(C) OF THE LAW. (SECTION 6(A) MAY ALSO APPLY. SEE OTHER SIDE FOR SECTION 6 ISSUES.)

DEPARTMENT OF ECONOMIC & EMPLOYMENT DEVELOPMENT
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

TRANSCRIPT OF TESTIMONY

Heard before

Judy-Lynn Goldenberg

Hearings
Examiner

in the case

Charles A. Williams
1518 Belt Street
Baltimore, MD 21230

S.S. #219-66-9682

Appeal #9008848

Locke Insulators, Inc.
2525 Insulator Drive
Baltimore, Maryland 21230

APPEARANCES

Charles A. Williams - claimant

William Hiel - Employee
Relations Manager
Kelvin Wilkens - Foreman
Steven Wright - Observer

Judy-Lynn Goldenberg
Hearings Examiner

TIME: 10:00 a.m.
DATE: July 18, 1990
PLACE: Glen Burnie, MD

TRANSCRIBED BY: ALICE MARIE BROGDEN

07

This is the claim of Charles Williams. The employer is Locke Insulators, Inc. The appeal number is 8848. We're here on an appeal by the employer, which was filed in a timely manner on July 5th. The deadline was July 11th. The employer is appealing a determination by the Glen Burnie local office, which allowed benefits to Mr. Williams. They found he was discharged as a disciplinary measure on May 21st because of excessive absenteeism. However, they found that information was presented by the claimant showing that his absences were compelling and necessitous. And, as a result, they found no misconduct or gross misconduct under either Section 6(b) or Section 6(c). Claimant is here to protect his benefit rating. And the employer has brought with it three witnesses: William F/ Hiel, Employee Relations Manager; Calvin Wilkens, Foreman of the Assembly Department and Hardware; and Steven Wright is an observer. Gentlemen, I'll take testimony under oath. Would you raise your right hands if you intend to testify. OATH ADMINISTERED

All Parties: Yes.

Hearings Examiner: Okay. Thank you. Mr. Williams, according to my records, your first day of work was October 19th, 1988. Is that correct?

Mr. Williams: Right.

Hearings Examiner: And I have as your last day of work May 21st, 1990. Is that correct?

Mr. Williams: Right.

Hearings Examiner: And at that time, your rate of pay was

\$9.00 and - I don't know whether it was \$9.02 or \$9.23 an hour.

Mr. Hiel: No. His earnings, and this is off the payroll records recently, were \$9.31...

Hearings Examiner: Is that correct?

Mr. Hiel: ...\$9.32 an hour.

Mr. Williams: Right.

Hearings Examiner: \$9.32?

Mr. Hiel: \$9.316.

Hearings Examiner: Okay. And was this for a full time job, sir?

Mr. Williams: Yes.

Hearings Examiner: What did you do for the company?

Mr. Williams: I worked in the assembly department.

Hearings Examiner: What kind of a business is this?

Mr. Williams: They make insulators.

Hearings Examiner: Okay. Are you working now?

Mr. Williams: No.

Hearings Examiner: Did you quit your job or did they fire you?

Mr. Williams: They fired me.

Hearings Examiner: We call that a discharge. In a discharge, we hear from the employer first for the reason or the reasons that you were let go. Mr. Hiel and Mr. Wilkens will testify. After Mr. Hiel finishes, you can ask him questions if

you have any. And after Mr. Wilkens finishes, you can ask him questions. Then you can tell me your side of the story. And when you finish, then they have the right to ask you questions. Okay?

Mr. Williams:

Okay.

Hearings Examiner:

Mr. Hiel, who will be your first witness?

Mr. Hiel:

I will be.

Hearings Examiner:

Can you tell me the reason or reasons this gentleman was let go?

Mr. Hiel:

In our union - company union contract since 1951...

Hearings Examiner:

Who's the union?

Mr. Hiel:

UE local 120.

Hearings Examiner:

Go ahead.

Mr. Hiel:

...It stipulates that any individual who receives four written warning notices within a one year period, results in automatic termination of employment.

Hearings Examiner:

For any reasons?

Mr. Hiel:

For any reasons, combination thereof. We have - These come under what we call minor offenses. We do have, what we say, gross misconduct or major offenses which result in immediate termination.

However, under his circumstances, he came

under the four warning notice routine. //

Hearings Examiner: Now, this was a contract that was negotiated between the management at Locke and the union leadership?

Mr. Hiel: Correct.

Hearings Examiner: And is the claimant a member of the union?

Mr. Hiel: He is.

Hearings Examiner: Uhm um. Go ahead.

Mr. Hiel: Uh, Mr. - It's stipulated, I believe, in that write-up that he was discharged the way I read it strictly for absenteeism. It's an accumulation - He received four warning notices. //

Hearings Examiner: Okay. Let's hear about them. Are you gonna be submitting them?

Mr. Hiel: Yeah. I will submit them for his review. The first warning notice that he received was on 8/18/89 for absenteeism. I have a copy of the company's attendance control procedures that I will submit to you, that stipulates the conditions they must adhere to, all employees. If you're absent two days within a thirteen week period, that is grounds for "a warning notice." If you are tardy twice and //

absent once, it's grounds for a warning notice.

Hearings Examiner: What happened in his case?

Mr. Hiel: He had missed two days in another - he worked in another department at that time. He received a warning notice on 8/18/89, for which he signed...

Hearings Examiner: Two days within how many days?

Mr. Hiel: Within a thirteen week period. I don't know exactly - This would be within a thirteen week period.

Hearings Examiner: Even if he has doctor's notes for these absences?

Mr. Hiel: Yes, maam. An absence is an absence. These were not accompanied by a doctor's notice. If it is, it's so stipulated in the warning notice. And...

Hearings Examiner: Are you gonna submit this?

Mr. Hiel: Pardon?

Hearings Examiner: Are you gonna submit this?

Mr. Hiel: Yes, maam.

Hearings Examiner: Well, let's get it as you go. As you go, I'd like the exhibits, okay.

Mr. Hiel: Well, I'll have to start...

Hearings Examiner: Makes my life simpler.

Mr. Hiel: I was just gonna give you the whole file.

Hearings Examiner: No. I want them individually, please.

It's easier for me to follow along what's happened cause you're familiar with these documents. Unfortunately, I am not.

Mr. Hiel: If you would care to have the first sheet of it, that may be - that's information of his hire date and...

Hearings Examiner: Okay. I already...

Mr. Hiel: ...(inaudible).

Hearings Examiner: ...have that. Okay. You can keep that.

Mr. Hiel: This would be the table of contents of everything you will receive.

Hearings Examiner: Okay.

Mr. Hiel: If you'd like to have that.

Hearings Examiner: That's fine.

Mr. Hiel: What I was going to - Upon hiring, every individual, as far as their orientation program, receives the company's Code of Conduct, which stipulates in there the warning notice procedure. I have the appropriate numbers marked there for you.

Hearings Examiner: Okay. Employer's Exhibit 1 is a table of contents of what I will be receiving, accompanied by a Locke Insulators' Code of Conduct...

Mr. Hiel: Each employee receives that during his orientation that I personally give to him.

Hearings Examiner: Okay.

Mr. Hiel: They also receive...

Hearings Examiner: Are you familiar with this Code of Conduct, sir?

Mr. Williams: Yes.

Hearings Examiner: Okay. Go ahead.

Mr. Hiel: They also receive this company's wage management instruction concerning the attendance control procedures. Each employee received that.

Hearings Examiner: Which is a policy about calling in...

Mr. Hiel: Right. And it spells out...

Hearings Examiner: ...and absences?

Mr. Hiel: Right.

Hearings Examiner: Employer's 2 - Hold on a minute - three pages - is an attendance control procedures policy. Are you familiar with this, sir?

Mr. Williams: Yes.

Hearings Examiner: Go ahead.

Mr. Hiel: Each employee, after the orientation session, signs what we call the Early Addition to Payroll Checklist, that they have received such information and it has been explained to him and they understand the procedures.

Hearings Examiner: Employer's 3 is a sign-off sheet, one

page. Mr. Williams, is this your signature?

Mr. Williams: Yes.

Hearings Examiner: Go ahead.

Mr. Hiel: Then he received the first warning notice on 8/18/89. ||

Hearings Examiner: Okay. And this...

INTERRUPTION

Hearings Examiner: ...this is for...

Mr. Hiel: That was his first warning notice.

Hearings Examiner: Employer's 4, one page. He missed an absence on 7/21 and 8/18. And he signed the warning. Go ahead.

Mr. Hiel: This is the second warning notice he received for poor workmanship. ||

Hearings Examiner: What date?

Mr. Hiel: 9/18/89.

Hearings Examiner: Specifically, what was the problem with his workmanship?

Mr. Hiel: Rejects in a number of pieces that he assembled.

Hearings Examiner: Employer's 5. It's a one page document, again, signed by Mr. Williams. I should note that on these warning notices, there is a place for employee comments. And so far, on Exhibits 4 and 5, there were no comments by Mr. Williams. Do you recall ||

this warning, sir?

Mr. Williams: Yes. This was in the other department where I wasn't properly trained.

Hearings Examiner: Okay. I'll hear from you about that when it's your turn. Okay.

Mr. Hiel: This is a warning notice here that was issued on 1/18/89...

Hearings Examiner: 1/18/89?

Mr. Hiel: I mean, excuse me, 1/18/90.

Hearings Examiner: Okay.

Mr. Hiel: You'll note on this warning notice here, which Mr. Williams will be familiar with this, there were two warning notices that were gonna be issued that same date. Had they been issued, he would have been terminated because it would have been his third and fourth. The one I - The foreman, Mr. Wilkens, came up and told me about it. I reviewed it. And he had brought to my attention, along with the union shop steward, that if we were to issue two warning notices on this date, it would be his termination of employment. I reviewed the situation. The one was for absenteeism, the one warning notice. The second one was gonna be issued because of the amount of

defects that he assembled that day. We had thirty-three rejects because of crooked caps. I took in consideration the young man's starting out, to give him a break. So I told the foreman and told the union representative, I'll tell you what I'll do. Give him a break. And I said, we'll combine the two items into one warning notice. The shop steward signed it. We made the notation, which Mr. Williams is familiar with. We note: "To prevent discharge, Items 1 and 2 are combined into one warning notice."

Hearings Examiner:

Employer's 6 is a two page exhibit, which is the warning of 1/18/90, third warning notice and a note, combining the notices, which was acknowledged by the shop steward...

Mr. Hiel:

That happened to be the reject, uh - I'll - If I could have that back when we're done....

Hearings Examiner:

This?

Mr. Hiel:

...That's our official record of the work that he performed that day.

Hearings Examiner:

Okay. I'm just gonna make it a one page exhibit, then. You can have this back. I don't need this.

Mr. Hiel: Okay. Thank you.

Hearings Examiner: Are you familiar with this warning notice, sir?

Mr. Williams: Yes.

Hearings Examiner: Okay. And, go ahead, sir.

Mr. Hiel: In addition to that warning notice he received on that day, I wrote him a personal letter, calling to his attention the seriousness of his situation and that he should take some positive steps to correct whatever his problem was. This is a copy of the letter that I sent him.

Hearings Examiner: Employer's 7, one page exhibit from Mr. Hiel. It's a form letter but it pertains to the fact that he's on the edge of hire in the sense that he is close to being discharged. Did you receive a copy of this letter?

Mr. Williams: Yes.

Hearings Examiner: Okay. Go ahead.

Mr. Hiel: On 3/21/90, we have a MOSHA inspection of our plant...

Hearings Examiner: For the record, would you explain what MOSHA is?

Mr. Hiel: It's a safety inspection conducted by the State of Maryland for a full compliance of the federal rules and regulations

under OSHA. The MOSHA inspector came in. There are certain designated areas where we have requirements for the wearing of personal, protective equipment, such as safety glasses, hearing protection, respirators....

Hearings Examiner:

This is required by MOSHA?

Mr. Hiel:

By MOSHA. The areas had been designated on a prior inspection by the inspector. The law required that 90 decibals - noise of 90 decibals or above, it is mandatory that employees wear their earplugs. It is mandatory that the said company so enforce such laws and the company is held strictly responsible for their compliance. During the inspection, uh,...

Hearings Examiner:

When was the inspection, what date? I'm sorry. ||

Mr. Hiel:

3/21/90.

Hearings Examiner:

Okay. Go ahead.

Mr. Hiel:

During the inspection, the inspector noticed Mr. Williams on an area and job where it is a full requirement for hearing protectors. He...

Hearings Examiner:

And he wasn't wearing his plugs? ||

Mr. Hiel:

...He wasn't wearing - We were issued a ||

citation...

Hearings Examiner:

Is there a fine involved?

Mr. Hiel:

...accompanied by a \$750 fine.

Hearings Examiner:

Because of this?

Mr. Hiel:

Because of his not having his ear protection on. He was called immediately. While the inspector was still on the sight I had his foreman immediately call him into the office. He was sent home at 1:15 p.m. because of the violation. And a warning notice was going to be issued. The - That same afternoon, I met with the chief shop steward and told him what had transpired. It so upset the safety inspector, he left our plant in an outrage and said he would be back the following day with an additional inspector because he was gonna do our plant from one end to the other. He left. I met with the union chief stop steward. I told him that he had been sent home because of it and he would receive a warning notice. The chief shop steward, who I have worked with for about twenty-five years, we went up to my office. He pleaded his case. He knows

the young man, I guess, personally. Plead his case, "Isn't there anything I can do," because at that time, this again, would have been his fourth. I listened to him and I said well, in faith, I really can't - I won't issue that warning notice. What I will do - I sent him home. It's cost him a half a day's pay. And the reason that I did it - I went back down into the department and I had seen - the inspector didn't see it, but I saw it when I went back down later that afternoon, I saw another individual without his earplugs in. I didn't think at that time maybe it was strictly fair to this individual, (inaudible) single him out. And so, I wrote on this. The foreman wrote this. I met with the union. I gave them a copy of this. If you note the notation on the bottom...

Hearings Examiner:

Employer's 8 is a last chance, again, given. Is that correct? ||

Mr. Hiel:

Yes, maam.

Hearings Examiner:

Was this discussed with the claimant, the fact that he was being given a final opportunity?

Mr. Wilkens: Yes, it was.

Hearings Examiner: For the record, that's Mr. Wilkens speaking up.

Mr. Hiel: I'm sure Mr. Williams will remember the day.

Hearings Examiner: Mr. Williams, do you recall this incident on March 31st?

Mr. Williams: Yes, but I had my glasses and earplugs in.

Hearings Examiner: Okay. We'll get to that when you testify. No problem.

Mr. Hiel: May I say this?

Hearings Examiner: Yes.

Mr. Hiel: He says that he had his earplugs in. They were in sideways and that's what ticked the inspector off.

Hearings Examiner: Okay.

Mr. Hiel: He said, "Who's he trying to kid?" And he looked - I didn't pick it up. I mean, this was...

Hearings Examiner: What do these earplugs look like?

Mr. Hiel: They're little - They're like sponge, soft, and you roll and you press them in - you roll them into a cone, put them in your ears, hold them for a couple seconds...

Hearings Examiner: And then they expand?

Mr. Hiel: ... (inaudible). They expand.

Hearings Examiner: So, how...

Mr. Hiel: They're approved by OSHA.

Hearings Examiner: ...What was the problem with his?

Mr. Hiel: The inspector said he had them in sideways. When I got a look at them, one was sticking in - He just had them in. Like the inspector said, "He's trying to kid me." And that's what ticked him off.

Hearings Examiner: You mean they were not in correctly?

Mr. Hiel: They were not in the hole...

Hearings Examiner: So he had them on his person...

Mr. Hiel: Yeah. They...

Hearings Examiner: ...They were just not properly worn?

Mr. Hiel: No. He just (inaudible) them in the side of his ear (inaudible)...

Hearings Examiner: Would they - Would they function correctly? ||

Mr. Hiel: No way! No way!

Hearings Examiner: And, of course, what's the purpose behind these MOSHA regulations?

Mr. Hiel: Human protection. If you get into a noise situation of from 85 to 90 decibals, it's a - this kind of thing - you tell the individual that they should, for their own protection, wear some type of ear protection, which we have three

different types that they can pick from, whatever seems to be more comfortable for them. At 90 decibals, it is mandatory by law that the employee wear hearing protection. It's a loss of hearing. It's a gradual loss of hearing. The law states that what we do, we have to establish when we hire the individuals, every employee that we hire, we establish what is called a baseline, augmentary testing procedure where we test their hearing at the time they come in. By law it is mandatory. It used to be two years. Now, it's once every year. You retest. If there is a ten decibal shift, "loss of hearing" from that point, we must send a letter to the individual, notifying him of such a shift, bring him in, counsel him, give him a letter to that affect as to what the shift actually is. All three...

Hearings Examiner:

To give him a right to decide what to do?

Mr. Hiel:

Give him a right to - And we suggest that you go to a specialist to have your hearing checked and to verify our findings, and to, at that time, make sure that he understands what the hearing

protection's for and that he has been properly wearing it. Again, go through the procedure of whether or not he knows how to wear...

Hearings Examiner: Has it been shown that if you wear these earplugs, you should not suffer a loss of hearing?

Mr. Hiel: The government said that this would prevent hearing loss. And that's why the law is so strict.

Hearings Examiner: Okay. What happened then?

Mr. Hiel: Uhm,...

Hearings Examiner: He was basically given another last chance.

Mr. Hiel: Right. Then, on 5/21/90 he received this fourth and final warning notice.

Hearings Examiner: What happened? What caused that?

Mr. Hiel: He was absent for court one day. Another day he had to take off four hours to go see his probation officer. On week fourteen he was absent another day. And then he had four days absence, accompanied by a doctor's certificate. He was out four days then. We look at doctors' certificates. We accept them on this basis under our absenteeism plan as you will see in that write-up. The thing

with the doctor's certificate, the only validity that we attach with it at that time, if he was out those four days without a doctor's certificate, he would be charged for each individual day. In other words, that would be four days.

That's an automatic. So,...

Hearings Examiner:

So you only gave him one?

Mr. Hiel:

...we gave him one.

Hearings Examiner:

One occurrence?

Mr. Hiel:

One occurrence.

Hearings Examiner:

So, he still had two absences within...

Mr. Hiel:

And plus a half a shift missing.

(Inaudible) - We had the shop steward in there. As you can see, it's so noted that he refused to sign that.

Hearings Examiner:

Employer's 9 is a five page document dated 5/21. Mr. Wilkens' signature is on this as a supervisor, I imagine. And, uh, does the union aggrieve things if they think your decisions are incorrect?

Mr. Hiel:

Absolutely. On a discharge, they grieve within thirty days.

Hearings Examiner:

Was the union involved in a grievance in this procedure?

Mr. Hiel:

No, maam.

Hearings Examiner:

At this point in time, there's been no...

Mr. Hiel: No, maam.

Hearings Examiner: ...union grievance? All employees are well aware of the union policy under which they are hired with regard to attendance, is that correct?

Mr. Hiel: Correct.

Hearings Examiner: Is there anything else?

Mr. Hiel: If I could just make a summation of what I've said.

Hearings Examiner: Go right ahead.

Mr. Hiel: I think that we have, the company, has established beyond a reasonable doubt the legitimate justification in there, in our termination of Mr. Williams. I believe that Mr. Williams, in fact, knowingly violated our long established company standards of conduct and our attendance control procedures. I think that the evidence that I have presented to you leaves not the slightest doubt that the primary basis for Mr. Williams' termination was, in fact, justified. The company has exercised its managerial rights in the management and control of our business. I think that the company has acted properly with its inherent and contractual rights. The company has

followed his progressive disciplinary procedures according to our negotiated contract, which has been enforced since 1951. If Mr. Williams had been as aggressive and concerned about holding his job as he seems to be about trying to apply for unemployment benefits, I don't think any of us would be sitting here today. I think it's clearly been shown that it's Mr. Williams who failed, not the company. I don't think that any company can be expected to alter its production schedules to coincide with problems created by an employee on the outside. Mr. Williams, as evidence has shown, was extended "two big breaks" on two different occasions. It should be noted that actually he could have been issued six warning notices instead of the four that we actually issued to him. The - As you noticed, a couple of those violations were combined into one. And on another occasion he was only given a half a day's suspension under that MOSHA violation instead of the warning notice. To rule that Mr. Williams is entitled to unemployment benefits, I

feel, would be totally unfair to the company and grossly, I feel, unjustified. It, most certainly, I feel, would open up a - deliver the wrong message and open up a can of worms. I think we've proved that Mr. Williams was given every opportunity. We're not a hard company to work for. We are probably as lenient, if the facts of our company are known, which they are. Our company is a damn good place to work with. We're very understanding. We have a reputation of working with people. Where a lot of companies throw people out the door left and right, we don't. We feel we have an investment in these people, which we do. We want them to become longtime employees for our company. It's very costly for us. When I terminated Mr. Williams, he had to be replaced. I had to train a man - Mr. Wilkens. He was a capable employee. The question here is not whether or not he can do the job. He could. He had all the capability to do it. He did not follow procedures in order to hold that job.

Hearings Examiner: For the record, is the UE United Electrical Workers Union?

Mr. Hiel: Yes, maam.

Hearings Examiner: Okay. Are there any questions, Mr. Williams, that you'd like to ask Mr. Hiel based on the testimony and the opinions he's just given?

Mr. Williams: Well, for one thing, I don't think it had anything to do with misconduct...

Hearings Examiner: (Inaudible), sir.

Mr. Williams: ...or gross misconduct.

Hearings Examiner: Well, at this time, do you have any questions to ask him?

Mr. Williams: No.

Hearings Examiner: All right. Is Mr. Wilkens going to testify?

Mr. Hiel: Maybe you can just ask questions or rebut, maybe, a statement...

Hearings Examiner: Okay. Mr. Wilkens, were you present during any of these occurrences where warnings were issued?

Mr. Wilkens: Yes. The last two. The, uh,...

Hearings Examiner: Earplugs?

Mr. Wilkens: The earplugs, I was present then when the MOSHA inspector cited him as having his earplugs in, I think, turned sideways or cockeyed.

Hearings Examiner: Did you see them?

Mr. Wilkens: Yes, I did.

Hearings Examiner: Did you agree with the inspector?

Mr. Wilkens: Yes, I did.

Mr. Hiel: I may add, if I could, maam, at this time that the OSHA inspector also made a write-up on Mr. Wilkens as negligence as a foreman of enforcing the MOSHA regulations.

Hearings Examiner: Okay. So, you made a...

Mr. Hiel: Which didn't do him any good on his appraisal.

Hearings Examiner: So, you made it a point to go and observe the claimant at the time, and you agreed that the inspector wasn't counseling you for nothing; that, indeed, he was correct?

Mr. Wilkens: Right. He was correct.

Hearings Examiner: What about the last warnings? You said - And I do see your signature on there. Okay. He had reasons that were legitimate absences. On February 22nd, he was in court. And on February 27th, he needed some time to see his probation officer. Why is that counted against him? Can you tell me?

Mr. Wilkens: This, really, is his personal problems

Mr. Hiel:

and the company doesn't cite them as being excused absences (inaudible)...
If I may add, interject on that, I don't know what - the reason why and I really could care less why he was on probation. However, I got a notice that he had violated his probation as one - Uh, we just don't consider that a legitimate - Our production schedules are set for people to be there everyday. We don't have the luxury - We don't carry any surplus help. We run a real tight ship (inaudible).

Hearings Examiner:

So, he knew as being a member of the union, what the contract required and his own personal problems had to be resolved on his personal time? Is that what you're saying?

Mr. Hiel:

Yes, maam.

Hearings Examiner:

Mr. Wilkens, is that what you would agree to?

Mr. Wilkens:

Yes.

Hearings Examiner:

Uh, is there anything else you'd like to add?

Mr. Wilkens:

No.

Hearings Examiner:

Mr. Williams, do you have any questions for Mr. Wilkens?

Mr. Williams: No.

Hearings Examiner: Okay, sir. Let's hear from you. You had mentioned earlier something about not being trained properly. Would you like to go into that?

Mr. Williams: On the first warning notice - I was transferred to another department before I received the first warning notice for not making the rate. I was only trained...

Hearings Examiner: Second warning notice.

Mr. Williams: ...I was only trained several hours.

Hearings Examiner: Did you complain to your shop steward?

Mr. Williams: Yes.

Hearings Examiner: What did he say?

Mr. Williams: He said stick with it, try to make the rate.

Hearings Examiner: They didn't grieve the warning?

Mr. Williams: No.

Hearings Examiner: Is there anything you could have done if they did not speak up on your behalf about that warning?

Mr. Williams: Yes, I did.

Hearings Examiner: What was it?

Mr. Williams: I filed a grievance.

Hearings Examiner: And what happened?

Mr. Williams: Nothing. They just told me to stick with

it.

Hearings Examiner: Well, beyond filing a grievance, if the shop steward didn't support you, is there anything more you could have done?

Mr. Williams: No.

Hearings Examiner: Mr. Hiel is shaking his head....

Mr. Hiel: Yes. There is...

Hearings Examiner: What could he have done?

Mr. Hiel: He has alternatives. He can file a grievance if he's not satisfied with it. He can request a meeting with the union for them to explain to him because if they're not satisfied with the answer, if the shop steward doesn't buy the (inaudible), there is a step 1 procedure of the grievance. He files the grievance. It goes to step 1, which would be in Mr. Wilkens' hand, where the individual and the shop steward of the department would meet with the foreman. If...

Hearings Examiner: So, if the shop steward says don't bother, what can he do?

Mr. Hiel: He can object. He has a chief shop steward.

Hearings Examiner: Uh huh.

Mr. Hiel: The chief shop steward then will take it

and if he deems it legitimate to fight the case, then he will request a meeting with the manager of shop operations.

Hearings Examiner: What if he doesn't deem it legitimate?

Mr. Hiel: Then the grievance - After sixty days, the last answer given on the grievance is the one that is mutually accepted by both the company and the union.

Hearings Examiner: What happened in this case?

Mr. Williams: At this time, I was put back in my first department, which was under Mr. Wilkens, and I was told not to bring it up no more by my shop steward.

Hearings Examiner: Did you take it any further?

Mr. Williams: No. He told me not to. He told me to let it lie because normally when a person is put in another department and they don't make their rate, they're laid off. And he told me not to bring it up no more. Just to stay...

Mr. Hiel: I object to that statement...

Hearings Examiner: Well, you can respond to that after he finishes testifying. You can rebut that.

Mr. Williams: That's what I was told.

Hearings Examiner: Okay. And did you pursue it any further?

Mr. Williams: No.

Hearings Examiner: Is there anything else I should know?

Mr. Williams: Uh,...

Hearings Examiner: You said as we had these exhibits put into evidence that, indeed, these things did occur, is that correct?

Mr. Williams: Yes. (Inaudible), yes.

Hearings Examiner: Okay. What about the, uh,...

Mr. Williams: I agree with all the absenteeism. (11*)

Hearings Examiner: ...earplug business?

Mr. Williams: The earplugs? I had them in the best way that I knew how. I was never shown how to put them in. They come around after that, after and they said write me up and showed us - they made everybody sign a paper and showed us how to put them in. So I went and bought different earplugs, the kind that stick in better.

Mr. Hiel: Can I make a statement?

Hearings Examiner: After he finishes.

Mr. Williams: Also, on the one notice where I received for crooked pins, I was working in a switch gang and I was not the only person reliable for those crooked pins on that date. It was only, uh, I think 33 out of, like 3200. And that's only like 1%.

Hearings Examiner: What are crooked pins? What are we talking about? Oh! I see. Employer 6. Now, you had an opportunity on this

to make comments and you didn't. Is there any reason why you didn't make comments about this?

Mr. Williams: Well, I was getting the warning notice about the absenteeism. I did comment to my shop steward.

Hearings Examiner: Well, it was on there...

Mr. Williams: I did, I did go...

Hearings Examiner: ...Two reasons were on here.

Mr. Williams: Right.

Hearings Examiner: Now, why didn't you rebut in the section for employee comments? Why didn't you rebut the fact or respond to this, this is about the crooked pins, if you thought that it was...

Mr. Williams: I took my shop steward in the office.

Hearings Examiner: Yeah. But I'm asking you why didn't you put it in writing?

Mr. Williams: Well, I...

Hearings Examiner: Is there any reason?

Mr. Williams: No.

Hearings Examiner: Okay. Did your shop steward pursue it?

Mr. Williams: Yes. (Inaudible) went into the office.

Hearings Examiner: Did he grieve it?

Mr. Williams: Yes. He said it was too many, too many errors. It was costing the company too much money.

Hearings Examiner: So, did the shop steward grieve this for you?

Mr. Williams: With my foreman.

Hearings Examiner: Did it go any further than that?

Mr. Williams: No.

Hearings Examiner: It was resolved in the company's favor?

Mr. Williams: Right.

Hearings Examiner: Okay. Is there anything else I should know?

Mr. Williams: Just the absenteeism. I had court notes. I was subpoenaed to court. So I had to go. And then I had doctor's slips for the absenteeism. //

Hearings Examiner: All right. But you did know that as a member of the union that there was a contract that had been negotiated... //

Mr. Williams: Right.

Hearings Examiner: ...and what the terms of that contract were? And you were hired under those terms, is that correct?

Mr. Williams: Also, I was...

Hearings Examiner: For the record,...

Mr. Williams: Right....

Hearings Examiner: ...yes?

Mr. Williams: ...Under the contract, though, I was supposed to be suspended after the third warning notice. And I never was. //

Hearings Examiner: Are you objecting to the fact that they didn't suspend you?

Mr. Williams: Yes.

Hearings Examiner: Why?

Mr. Williams: Well, they're supposed to follow form. It might have straightened me out.

Hearings Examiner: Oh! So, you're saying...

Mr. Williams: Also, I did file...

Hearings Examiner: ...Are you saying that they condoned your behavior or forgave your behavior?

Mr. Williams: No. No....

CASSETTE #4916

Hearings Examiner: We're back on the record. And Mr. Hiel wanted to make some rebuttal testimony based on the statements made on direct by the claimant, Mr. Williams. Go ahead, sir.

Mr. Hiel: On a particular job he said he wasn't properly trained. On many occasions we borrow people from other departments, put them in there and they make the standard. He was on a, what we call, a progressive schedule. I think at the time, we were looking for output from him in the range of 75 or 80-- not more than 80% of the established standard. In talking with the foreman, I reviewed each

and every warning notice. As you can see, I signed every one of them, reviewed with the foreman why. The foreman felt that, number one, he wasn't putting forth his effort. That he felt that he would only be over there on a temporary basis and be going back to this original department.

Hearings Examiner: So, the warning had nothing to do with training. It had to do with simple attitude and performance?

Mr. Hiel: We - As I say, we borrow people out of other departments and put them in there and, hell, we have no problem at all.

Hearings Examiner: Okay. Anything else?

Mr. Hiel: I - As I say, I rebut because the - seeing that he was part of a settlement on a MOSHA citation, was that we must go to every employee and re-establish the use of earplugs and have them sign a letter to that affect. That was part of the citation that I had to post in his department....

Hearings Examiner: Should he have known how to use the earplugs before the inspection?

Mr. Hiel: Absolutely. He's been - Several occasions - He gets earplugs all the time

from the foreman cause they don't last very long. They use them one or two days at the most and then they disregard them and get a new pair. I cannot conceive in my mind as much as I've been around - down there enforcing the wearing of earplugs and with the foreman, that he could sit there and say he didn't know how to wear the earplugs. I mean it's so simple. It even has a picture on the little package, how you roll them and stick them in your ear. It's - I can't buy that at all. I give him credit (inaudible)...

Hearings Examiner:

Okay.

Mr. Hiel:

...at least average intelligence.

Hearings Examiner:

Final statement you'd like to make, sir?

Mr. Williams:

Just about the earplugs.

Hearings Examiner:

Go ahead.

Mr. Williams:

You put them in and they expand when you work a little bit. And that's what happened. They were sticking out. They weren't inside. They (inaudible) right.

Hearings Examiner:

And you've already made a final statement on behalf of the employer earlier, which I allowed earlier. Okay....

Mr. Hiel:

Yeah. I, I didn't write that. I didn't

issue the citation.

Hearings Examiner:

I understand that.

Mr. Hiel:

The safety inspector did.

Hearings Examiner:

I understand that it was made by him and not by the company; an outside party. Okay. Gentlemen, it's not our policy to make an instant decision at the hearing. What I will do is, I will be in Baltimore tomorrow to dictate the decision, which goes to our Word Processing Department in Baltimore. It takes seven to ten days to have a decision mailed out to all the parties. Sir, are you getting your checks and you're getting your claim cards?

Mr. Williams:

Yes.

Hearings Examiner:

You'll continue to receive them pending my decision. If my decision is in your favor, you will still receive them. And, of course, it's your responsibility to keep sending them back in a timely manner to receive the following check and the following form. If I decide in the employer's favor, the checks will stop and you'll be given instructions as to what is necessary as far as repayment if that is part of the ramification of a

decision in favor of the employer. If I rule in the claimant's favor, the employer has a right for a further appeal and vice versa, if I rule in the employer's favor, Mr. Williams can appeal. What to do if either party wants to appeal above my head is on the first page of my decision. It's called the Board of Appeals. It's a three attorney panel in Baltimore. There's a deadline just like there was when the employer filed this appeal, if anybody is interested in taking this case further. Thank you very much. It'll be seven to ten days when you get the decision. This hearing is adjourned. Thank you, sirs.

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APPEALS DIVISION
Exhibit No. 1
For Identification Only
As Evidence p. 1 of 2

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INSULATORS
LOCKE

**CODE
OF
CONDUCT**

45 *

INTRODUCTION

Whenever a group of people work together, the objective of orderliness and harmony necessitates an understanding of work rules designed for the welfare of all. Here at Locke Insulators, we have standards of conduct for our common guidance, just as communities have laws. The purpose is the same in both cases -- equal protection and benefit for all concerned.

It is impossible to cover every standard of conduct for every circumstance, and the Company tries to keep these standards to a necessary minimum. We do, however, expect all of our employees to meet and comply with these standards at all times.

Whenever an employee breaches one of these standards, then measures must be undertaken to correct the situation and to curtail further occurrences. Forms of discipline include oral counseling, written warnings, suspension from work, and discharge. The degree of discipline as decided by the Company depends on the gravity of the offense and circumstances under which it occurred.

All violations of these standards of conduct will be investigated before any discipline is imposed. (The procedure and standards for handling absenteeism and lateness problems are treated separately in the Company's "Attendance Control Procedures".)

If you have any questions about what is contained in Locke's Code of Conduct, please see your foreman or the Relations Department.

WORK PRACTICES

The following work practices are not all-inclusive, but are intended to be illustrative of the type of conduct which is required of employees at Locke Insulators:

1. Each employee is required to be at his or her work place ready to work at the beginning of the assigned work period and leave work promptly at the end of assigned work period. If an employee is unable to report for work, or is going to be late in reporting for work, for any reason, he or she is required to notify the supervisor or other designated individual in advance of the time he or she is scheduled to report.

2. Employees are required to be at their work place applying themselves

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to assigned duties during the full period for which they are being paid, except that two "break" periods are scheduled by the company for you to take care of your personal needs (12 minutes each). Requirements with respect to use of drinking fountains, refreshment areas, and lavatories are included within the two "break" periods.

3. Employees are required to meet full shift production standards as established by the company and to report to their supervisors any conditions or circumstances, as they become known, which will prevent them from performing effectively or from completing their assigned tasks.

4. Employees are required to follow the instructions and procedures specified for their work and to report any inadequacies in the work instructions and procedures to their supervisors.

5. Each employee is required to produce acceptable work and to report promptly any deviations from design or quality specifications.

6. Each employee is required to work safely and to use safety equipment when necessary. Each employee is required to adhere strictly to the company's safety rules and procedures, to dress appropriately, to use safety equipment when specified and to report unsafe conditions to the direct supervisor immediately.

STANDARDS OF CONDUCT

Minor Offenses

The procedure for handling minor offenses and the penalties to be invoked are as follows:

1. A separate written warning notice shall be given to an employee for a minor offense in violation of each company rule, policy, or practice. At the discretion of the supervisor, and depending upon the circumstances, including the past record of the employee, a documented oral reprimand or contact notice may be substituted for the first offense.

2. A warning notice remains active for a period of one year from the date of issue. Accumulation of three active warning notices for the same or different offenses will result in disciplinary action, usually a one week suspension without pay.

③ Accumulation of four active warning notices for the same or different

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offenses will result in discharge.

NOTE Copies of all warning and contact notices shall be given to the employee involved, his supervisor and the employee relations administrator.

Major Offenses

Major offenses carrying a penalty of immediate suspension, subject to discharge, shall include but not be limited to the following major offenses:

1. Failure or refusal to carry out orders or instructions.
2. Unsatisfactory work performance.
3. Failure to fulfill the responsibilities of the job to an extent that might or does cause injury to a person or substantial damage to or loss of product, machinery, equipment, facilities or other property.
4. Chronic or habitual absenteeism or lateness, under the Company's separate attendance standards.
5. Violation of an established safety, fire prevention, health or plant security rule.
6. False, fraudulent or malicious statement or action involving relations with the Company, another employee, or a customer, or any action disloyal to the Company.
7. Falsification of hours worked or Company records and/or omission of information requested on Company records or documents.
8. Unauthorized use of, removal of, theft, or intentional damage to the property of the Company, an employee, an independent contractor, or a customer.
9. Threatened or actual physical violence or profane or abusive language.
10. Carrying any weapon on Company premises without authorization from the Company.
11. Bringing onto Company premises, having possession of, being under the influence of, or consuming on Company premises or while on Company business, any intoxicant.
12. Bringing onto Company premises or having possession of, being

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under the influence of, or having in one's system, or using, transferring, selling or attempting to sell on Company premises or while on Company business any form of narcotic, depressant, stimulant or hallucinogen, the possession, use, transfer or sale of which is prohibited by law, excepting only the taking of prescribed drug under the direction of a physician.

13. Gambling, disorderly, or immoral conduct while on Company premises or business.

14. Excessive garnishments, to the extent permitted by law, except that no employee will be discharged because of garnishments for any one indebtedness.

15. An arrest, the filing of a disorderly person or criminal complaint, or the return of an indictment against an employee for any alleged wrongful activity may result in an indefinite suspension without pay, subject to discharge, depending on the particular circumstances and the offense charged. (All employees are obligated to cooperate with the Company by notifying their Supervisor of any arrest or charges filed involving them, to provide and assist the Company in obtaining all relevant information needed to enable the Company to consider the allegation, and to provide current status information on the arrest or allegations as required by the Company).

16. Leaving the plant without proper notification and authorization, including leaving the plant without clocking OUT when leaving and IN upon returning.

17. Sleeping during working hours or hiding with the intent to sleep.

18. Punching another employee's time card or using another employee's ID badge to register time worked or to gain access to the plant, or allowing another person to use your ID badge.

19. Refusal to submit to the request by authorized personnel for an inspection of any container which is being carried into or out of the plant, or to refuse to submit to a request for an inspection of personal items, locker, or vehicle. (While on Company property)

20. Performing work or services for, or supplying proprietary information to, competitors, or any other acts which may be deemed disloyal to the Company.

21. Refusal to submit to any and all physical examinations, tests,

LOCKE INSULATORS, INC
WAGE MANAGEMENT INSTRUCTIONS

SUBJECT:

ATTENDANCE CONTROL PROCEDURES

No.
140.1
Pg. 1 of 3

I. POLICY

Each employee is required to be at his or her work place ready to work at the beginning of the assigned work period and to leave work promptly at the end of the assigned work period. If an employee is unable to report for work, or is going to be late in reporting for work, for any reason, he or she is required to notify the supervisor or other designated individual in advance of the time he or she is scheduled to report.

II. PURPOSE

The purpose of this procedure is to encourage regular, punctual attendance; to provide guidelines for effective management of attendance; and to ensure consistent, fair and equitable treatment of employees who are tardy and/or absent.

III. DEFINITIONS

- A. Absence - Any continuous period beginning with the starting time of the shift and exceeding 50% of the scheduled shift. Multiple days of continuous absence will be counted as a single occurrence only when the absence is due to a verified personal illness (Doctor's Certificate).
- B. Tardiness - Any lateness. An employee is late if he/she is not at the work station at the start of the shift or, is late in returning to his work station at the end of a scheduled "break" or lunch period. (An employee who clocks in exactly at the starting time of the shift is late.)
- C. Incomplete Shift - Departure prior to the end of the shift will be treated the same as tardy. (Early departure could also be a more serious offense. Refer to paragraph IV.E. following.)

IV. GUIDELINES

A. Progressive Discipline Procedure

- 1. Employees who are absent 2 times (2 occurrences) within any 13 week period or who are absent for a continuous period of 5 working days for any reason (except those listed in IV E) shall be issued a warning notice.

APPEALS DIVISION	
E	Exhibit No. 2
For Identification Only	
✓	As Evidence p. 1 of 3

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ISSUED BY

APPROVED BY

SUPERCEDES
ISSUE DATE

EFFECTIVE
DATE

Relations

J.G. McClellan

2/1/86

3/7/88

2.

WAGE MANAGEMENT INSTRUCTIONS

SUBJECT:

ATTENDANCE CONTROL PROCEDURES

pg. 2 of 3

2. For the purposes of administration, two tardinesses and/or incomplete shifts shall be equivalent to one absence.
3. Warning notices issued for absenteeism will remain active for one year and will be counted along with warning notices issued for other infractions according to the Company's warning notice procedure. A disciplinary suspension of 2 days will be imposed on an employee when a 3rd warning notice issued within a one year period is for absenteeism regardless of what the prior two warning notices were for.

B. Failure to Call In or to Give Advance Notice

1. A failure to call in prior to the start of the shift to report an absence or tardiness is a very serious offense in and of itself. Therefore a failure to call in will result in the issuance of a warning notice unless there are extenuating circumstances. When it is impossible to call before the start of the shift, employees must call in at the earliest possible opportunity. Such late call ins will be acceptable only when an employee provides proof that his or her failure to call in before the start of the shift was due to circumstances beyond their control.
2. Employees calling in to report they will be late or absent will be given a "log number". This number is important to the employee for verification of the call in.
3. An employee who is absent for more than one consecutive day must call in daily to receive a "log number". An employee who knows his or her absence will be extended due to hospitalization for example, should personally contact the foreman, in addition. In this case, daily call-ins will not be required.

C. Absence During Scheduled Overtime

An absence or an incomplete shift during periods of scheduled overtime must also be recognized as a very serious offense. Therefore a Warning Notice will be issued. If there are extenuating circumstances, the absence will be treated under the Attendance Control Program as if it occurred during the normal work schedule.

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<u>ISSUED BY</u>	<u>APPROVED BY</u>	<u>SUPERCEDES ISSUE DATE</u>	<u>EFFECTIVE DATE</u>
Relations	J.G. McClellan	2/1/86	3/7/88 3

WAGE MANAGEMENT INSTRUCTIONS

SUBJECT:

ATTENDANCE CONTROL PROCEDURES

pg. 3 of 3

D. Leaving Work Prior to the End of Shift

1. An employee who leaves prior to the end of his or her scheduled shift (an incomplete shift) without satisfactory reasons and/or without concurrence of the foreman (when early departure is not at company convenience) will incur disciplinary action up to and including discharge. The employee may, in fact qualify for an immediate suspension based on his or her having left the work station without notification and/or authorization.
2. The foreman in deciding how to treat the early departure will consider any extenuating circumstances which may have caused the employee to act as he or she did.

E. Absences Not Counted in Disciplinary Procedure

1. Absences which are not normally counted in determining the need for disciplinary action are: days for which pay is received such as vacation (must be scheduled in advance), holiday, jury duty, court appearance, paid "sick" days, death in family; layoff; and military leave. Where possible, as much advance notice of the absence as can be given should be given so that schedules can be adjusted. At least one week's notice will be required, except for emergencies. The granting of paid sick/personal days "after the fact" shall be contingent upon the reasons for such absence.

V. Summary of Guidelines for Disciplinary Action

A. Absences

1. All unpaid absences will be counted in determining the need for disciplinary action. Paid absences will not be counted.

B. Warning Notice

1. Two (2) occurrences of absence within a 13 week period (Two tardy and/or incomplete shifts = 1 absence).
2. A continuous period of 5 working days (even if verified illness).

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ISSUED BY

APPROVED BY

SUPERCEDES
ISSUE DATE

EFFECTIVE
DATE

Relations

J.G. McClellan

2/1/86

3/7/88

4.

DODGE INSULATORS, INC.
HOURLY ADDITION TO PAYROLL - CHECKLIST

NAME: Charles Williams

SOCIAL SECURITY # 219 66 9682

DATE ADDED TO PAYROLL 10/19/88

PAY NUMBER 155508

FORMS

- 1. Addition to Payroll ✓
- 2. Application ✓
- 3. Insurance Forms
 - Group Insurance ✓
 - Long Term Disability ✓
 - Personal Accident ✓
 - Dependent Life ✓
 - Blue Cross/Blue Shield (dental) ✓
 - COBRA
- 4. Birth Certificate
- 5. Pension Plan
- 6. Savings Plan
- 7. Charity
- 8. Withholding Certificate
- 9. Personal Data
- 10. Approved Request for Help
- 11. Procession
- 12. Employee Folder

HAND OUTS

- 1. Insurance Plan Booklet
- 2. Health Insurance Booklet
- 3. Pension Plan booklet
- 4. ID. Badge/Payclock
- 5. Safety Glasses
- 6. Code of Conduct book
- 7. Union Contract Book
- 8. Locker Combination Lock
- 9. Parking Sticker
- 10. Central Credit Union

EXPLAIN

- 1. Work Rules
- 2. Safety Rules
- 3. Telephone
- 4. Safety Shoes (Payroll Deduction)
- 5. IDEA Plan
- 6. Blood Bank
- 7. Benefits

COMMENTS: Code of conduct book has been explained to me by Mr. W.F. Hiel on 2-17-89 Date JDH

SIGNED Charles A. Williams
DATE: 2/17/89

ORIENTATION CONDUCTED BY: Brenda Keenan

APPEALS DIVISION	<u>3</u>
Exhibit No.	<u>3</u>
For Identification Only	
As Evidence p.	<u>1 of 1</u>

Warning Notice - Absences or Tardiness

TO: C. Williams

PAY NO. 166372 DATE 8/18/89

Your absence record, ;bout which we have talked in the past, has not improved as you indicated it would. This warning notice is issued to you to put on record your continued unsatisfactory performance and documents our discussion of today. Failure on you part to correct this situation, will result in more severe disciplinary action up to and including discharge.

Signed F. Hartley
Foreman

Received
Copy Charles A. Williams
Employee

Employee Comments: _____

WK 29	Fri	7/21/89	1 Absence
WK 33	Fri	8/18/89	1 Absence

cc: Employment Office
Foreman

APPEALS DIVISION
Exhibit No. 4
For Identification Only
 as evidence of L

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6.

11-517 (11-57)

WARNING NOTICE

TO: Charles Williams

PAY NO. 166372

DATE 9-18-89

This is to inform you that your work [redacted] is unsatisfactory as described below:

Description of Work:

Piece No.	Quantity	Description of Defects
<p>^{Work} Description of Conduct: Your work performance for off line tables was only 43.6% to standard for week 36. Your work performance on clean & insp for week 37 was 86% to standard. Due to this sub standard output you are being removed from job code 3908 (off line tables) and job code 8050 (clean & insp small part.) You were given ample time to learn the above jobs, therefore you will be unable to return to either job classification.</p>		

Signed F. Hattley
Foreman

Received Copy Charles A. Williams
Employee

Employee Comments:

cc: Employment Office Foreman

APPEALS DIVISION
Exhibit No. <u>5</u>
For Identification Only
<input checked="" type="checkbox"/> As Evidence p. <u>1</u> of <u>1</u>

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LOCKE INSULATORS

— THIRD —
WARNING NOTICE

For absenteeism.

TO: C. WILLIAMS
PAY NUMBER: 155528

DATE: 1-18-90

APPROVALS:
Dept. Mgr.: C. M. Wilkins
Relations: J. F. Ouel

ISSUED IN PRESENCE OF:
Union Rep: Anthony Pastore
Mgt. Rep: _____

DESCRIPTION OF PROBLEM: This is to inform you that your absenteeism is unsatisfactory. **NOTIFICATION:** This THIRD Warning Notice is being given to you because of your absenteeism. Your time out is in direct violation of the Company's attendance control policy. You will be given a two-day disciplinary suspension. Such time off will be given to comply with the needs of the business. Your continued failure to adhere to the absenteeism policy shall result in further disciplinary action up to and including discharge.

I Wk # 50 - absent
Wk # 2 - absent

II ON 1/8/90 YOU WERE THE COLLAR MAN IN THE SWITCH ASSEMBLY GANG. ON 1/9/90 WHEN THE ASSEMBLYS CAME OFF THERE WERE 33 CROOKED PINS FOR A TOTAL OF 1.2% DEFECT. CONTINUATION OF DEFECTIVE WORKMENSHP CAN AND WILL RESULT INTO FURTHER DISPLINARY ACTION.

NOTE: TO PREVENT DISCHARGE ITEMS 1 + 2 ARE COMBINED INTO ONE WARNING NOTICE. C.M.W.

SIGNED BY: C. M. Wilkins
FOREMAN

ACKNOWLEDGEMENT OF COPY RECEIVED:
Employee: _____ Date: _____
Union Steward: Anthony Pastore Date: _____

EMPLOYEE COMMENTS:

APPEALS DIVISION
Exhibit No. 6
For Identification Only
 As Evidence p. 1 of 1

EMPLOYEE SIGNATURE:

DATE: 54

LOCKE

Date: JAN. 18TH 1990

Dear Mr. C. WILLIAMS :

This letter is being written to you, to call your immediate attention to the very serious problem you are facing concerning your active warning notice situation. If you receive another warning notice for violation of any rule, including absenteeism before 8-18-90 you will be terminated in accordance with the Company's Code of Conduct. The Company cannot tolerate any employee who for whatever the reasons cannot be counted upon for regular attendance. You are an experienced employee, fully capable in the performance of your job ... but your poor attendance record is going to jeopardize your continued employment. The ball is in your court ... its strictly up to you as to what transpires from this point forward. It indeed would be a tragedy to allow another infraction of plant rules to cost you your job. I urge you to take stock of your situation and to take positive steps to correct whatever it is that is placing your employment in a very critical situation. You must turn it around ... its not too late.

Sincerely,

W.F. Hiel

W.F. Hiel
Employee Relations Administrator

WFH/bg

APPEALS DIVISION	
<u>E</u>	Exhibit No. <u>7</u>
<input type="checkbox"/>	For Identification Only
<input checked="" type="checkbox"/>	As Evidence p. <u>1</u> of <u>1</u>

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9.

LOCKE INSULATORS



WARNING NOTICE

For violation of MOSHA law regarding the wearing of proper hearing protection.

TO: E. Wallonie
PAY NUMBER: 155508

DATE: 3/21/90

APPROVALS:
Dept. Mgr.: _____
Relations: William F. Stiel

ISSUED IN PRESENCE OF:
Union Rep: _____
Mgt. Rep: _____

DESCRIPTION OF PROBLEM: This warning notice is being issued to you as a result of your failure to wear ear protectors as instructed. The MOSHA law mandates that, since your current occupation exceeds the acceptable noise levels, hearing protection MUST be worn at all times while engaged in this occupation.

Your continued failure to comply with this Federal and State law will result in further disciplinary action up to and including discharge.

Protect your hearing.....because once the sensitive nerve endings of hearing are damaged there is NO known procedure of restoring normal function no matter what the cause. Use an "ounce of prevention"--because there is no "pound of cure."

*Was sent home @ 1:15 PM
Per Stiel*

APPEALS DIVISION
<u>E</u> Exhibit No. <u>8</u>
<input type="checkbox"/> For Identification Only
<input checked="" type="checkbox"/> As Evidence p. <u>1</u> of <u>1</u>

SIGNED BY: Francis
FOREMAN

ACKNOWLEDGEMENT OF COPY RECEIVED:
Employee: _____ Date: _____

Union Steward: _____ Date: _____

EMPLOYEE COMMENTS:

WAS NOT ISSUED, AS IT WOULD HAVE BEEN HIS FOURTH. William F. Stiel 56

RESULTED IN A CITATION BEING ISSUED

EMPLOYEE SIGNATURE: By MOSHA DATE: _____

LOCKE INSULATORS



WARNING NOTICE

For absenteeism.

TO: C. Wilkins
PAY NUMBER: 155508

DATE: 5/21/90

APPROVALS:
Dept. Mgr.: Edward F. Howey
Relations: William F. Tittel

ISSUED IN PRESENCE OF:
Union Rep: A. Paulow
Mgt. Rep: C. M. Wilkins

wlc #8 - absent court. 2/22/90

wlc #9 - worked 4.0 hrs probation office. 2/27/90

wlc #14 - absent 4/6/90

wlc 19 - absent 4 days doc's office 5/10, 5/11, 5/14 +
20 / 5/15

As this is your 4th active warning notice within a one year period your employment with Locke Insulators, Inc. is terminated as of May 22nd, 1990. You will be paid one weeks pay in lieu of notice.

SIGNED BY: C. M. Wilkins
FOREMAN AW

ACKNOWLEDGEMENT OF COPY RECEIVED:
Employee: REFUSE TO SIGN Date: 5/21/90
Union Steward: A. Paulow Date: 5/21/90

EMPLOYEE COMMENTS:

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APPEALS DIVISION
Exhibit No. 9
For Identification Only
 AS EVIDENCE p. 1 of 1

EMPLOYEE SIGNATURE: REFUSE TO SIGN DATE: 5/21/90



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

— DECISION —

<p>Claimant:</p> <p>Charles A. Williams 1518 Belt Street Baltimore, MD 21230</p> <p>Employer:</p> <p>Locke Insulators, Inc. 2525 Insulator Drive Baltimore, MD 21230</p>	<p>Date: Mailed: 7/26/90</p> <p>Appeal No.: 9008848</p> <p>S. S. No.: 219-66-9682</p> <p>LO. No.: 02</p> <p>Appellant: Employer</p>
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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 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 **August 10, 1990**

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Present

William Hiel,
 Employee Relations
 Manager;
 Kelvin Wilkens,
 Foreman of the
 Assembly Dept. &
 Hardware;
 Steven Wright,
 Observer/Witness

FINDINGS OF FACT

The claimant's first day of work was October 19, 1988 and his

58

last day was May 21, 1990. He worked full-time, earning \$9.32 an hour, working in the assembly department of an insulation company. The claimant was a member of the United Electrical Workers Union, Local 120. Presently, he is not employed.

Pursuant to a contract negotiated between the union and management, the employer has the right to discharge an employee after four written warnings for various reasons or for one continuing reason had been issued within a one year period. In the present case, the credible evidence indicates that the claimant was in receipt of the aforesaid four required warnings, as well as being given two additional opportunities to improve his work performance. His first warning occurred in August of 1989 because of two occurrences of absenteeism within thirteen weeks. His second warning occurred September 18, 1989 because of poor workmanship. The third warning of January 18, 1990 was actually a combination of absenteeism and defects in his production, which were generously combined into one warning instead of two by the employer.

The most serious infraction occurred on March 21, 1990, when a MOSHA Inspector cited the employer and the claimant because the claimant was observed improperly wearing the earplugs, which are required to be worn as protective equipment in certain areas of the plant, under Federal and State Regulations. The claimant was warned verbally and sent home, and instead of issuing a final notice which would have resulted in his discharge then and there, the shop steward spoke up on his behalf, and it was agreed by Mr. Hiel to give the claimant one more opportunity. Finally, on May 21, 1990, the claimant received a fourth and final warning as a result of absenteeism for personal reasons.

As of this date, the union has not chosen to grade the discharge on behalf of the claimant.

CONCLUSIONS OF LAW

Article 95A, Section 6(b) provides that an individual shall be disqualified from benefits where he/she is discharged from employment because of behavior which demonstrates a deliberate and willful disregard of standards which the employer has a right to expect. The preponderance of the credible evidence in the instant case will support a conclusion that the claimant was discharged for actions which meet this standard of the Law.

Article 95A, Section 6(b) provides that an individual shall be disqualified from benefits where he/she is discharged from employment because of a series of violations of employment rules which demonstrate a regular and wanton disregard of his/her obligations to the employer. The preponderance of the credible evidence in this case will support a conclusion that the claimant's actions meet this standard of the Law.

DECISION

It is held that 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 May 20, 1990, and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1,810.00) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner below is hereby reversed.

Judy-Lynn Goldenberg

Judy-Lynn Goldenberg
Hearing Examiner

Date of Hearing: 7/18/90
dma/Specialist ID: 02416
Cassette No: 4915, 4916
Copies mailed on 7/26/90 to:

Claimant
Employer
Unemployment Insurance - Glen Burnie (MABS)

RECEIVED

AUG 3 1990
GLENN BURNIE
OFFICE

7/27/90

#3
217.66.9582

Board
Appeal

To whom it may concern
I feel the determination of
the Claims Examiner is incorrect
and wrong. My absences were
of a Compelling and necessitous
nature. I had Doctor's excuses
when absent and the other days
were Court ordered.

RECEIVED

AUG 3 1990

OFFICE OF BOARD APPEALS

The infraction of not
wearing earplugs is incorrect
I was wearing safety glasses
as well as having my earplugs
in place. There were several
witnesses working beside me
at this time.

Again I feel the determination
is incorrect and I hereby appeal
this decision. I have gotten a
Larger Phyliss Hatchkiss and
I plan to take Locke Insulator
to Court.

Yours Truly
Charles Williams



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

— DECISION —

<p>Claimant:</p> <p>Charles A. Williams 1518 Belt Street Baltimore, MD 21230</p> <p>Employer:</p> <p>Locke Insulators, Inc. 2525 Insulator Drive Baltimore, MD 21230</p>	<p>Date: Mailed: 7/26/90</p> <p>Appeal No.: 9008848</p> <p>S. S. No.: 219-66-9682</p> <p>L.O. No.: 02</p> <p>Appellant: Employer</p>
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Claimant-Present

William Hiel,
 Employee Relations
 Manager;
 Kelvin Wilkens,
 Foreman of the
 Assembly Dept. &
 Hardware;
 Steven Wright,
 Observer/Witness

FINDINGS OF FACT

The claimant's first day of work was October 19, 1988 and his

62

last day was May 21, 1990. He worked full-time, earning \$9.32 an hour, working in the assembly department of an insulation company. The claimant was a member of the United Electrical Workers Union, Local 120. Presently, he is not employed.

Pursuant to a contract negotiated between the union and management, the employer has the right to discharge an employee after four written warnings for various reasons or for one continuing reason had been issued within a one year period. In the present case, the credible evidence indicates that the claimant was in receipt of the aforesaid four required warnings, as well as being given two additional opportunities to improve his work performance. His first warning occurred in August of 1989 because of two occurrences of absenteeism within thirteen weeks. His second warning occurred September 18, 1989 because of poor workmanship. The third warning of January 18, 1990 was actually a combination of absenteeism and defects in his production, which were generously combined into one warning instead of two by the employer.

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As of this date, the union has not chosen to grade the discharge on behalf of the claimant.

CONCLUSIONS OF LAW

Article 95A, Section 6(b) provides that an individual shall be disqualified from benefits where he/she is discharged from employment because of behavior which demonstrates a deliberate and willful disregard of standards which the employer has a right to expect. The preponderance of the credible evidence in the instant case will support a conclusion that the claimant was discharged for actions which meet this standard of the Law.

Article 95A, Section 6(b) provides that an individual shall be disqualified from benefits where he/she is discharged from employment because of a series of violations of employment rules which demonstrate a regular and wanton disregard of his/her obligations to the employer. The preponderance of the credible evidence in this case will support a conclusion that the claimant's actions meet this standard of the Law.

DECISION

It is held that 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 May 20, 1990, and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1,810.00) and thereafter becomes unemployed through no fault of his own.

The determination of the Claims Examiner below is hereby reversed.

Judy-Lynn Goldenberg

Judy-Lynn Goldenberg
Hearing Examiner

Date of Hearing: 7/18/90
dma/Specialist ID: 02416
Cassette No: 4915, 4916
Copies mailed on 7/26/90 to:

Claimant
Employer
Unemployment Insurance - Glen Burnie (MABS)

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

STATE OF MARYLAND
BOARD OF APPEALS - ROOM 515
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
333-5032

WILLIAM DONALD SCHAEFER
Governor

NOTICE OF APPEAL

Claimant's Name	Employer's Name	Date	Appeal No.	SS No.
CHARLES A. WILLIAMS	LOCKE INSULATORS, INC.	08/16/90	9008848	219-66-9682

Appellant: **CLAIMANT**

002

The Board of Appeals has received an appeal in this case. The Board may deny a petition for review, it may decide the case on the record already established, or it may grant a hearing. You will be notified in the future of the Board's action.

The Board's action may change the result of the Examiner's decision. If the Claimant has been previously disqualified from benefits, that disqualification may be affirmed, modified or reversed.

If the Claimant has been granted benefits, a partial or total disqualification may be imposed by the Board's action. If this occurs, the Claimant may be required to pay back some or all of the benefits received.

It is the duty of all parties to keep the Board of Appeals notified of their current address. Please write to the Board at Room 515, 1100 North Eutaw Street, Baltimore, MD 21201 if your address changes.

Mail To:

**CHARLES A. WILLIAMS
1518 BELT STREET
BALTIMORE, MD 21230**

PAUL G. ZIMMERMANN
COUNSEL

Copies Mailed To:

**LOCKE INSULATORS, INC.
ATTN: WILLIAM HIEL
EMPLOYEE RELATIONS MANAGER
2525 INSULATOR DRIVE
BALTIMORE, MD 21230**

DEED/OU/AD 371 C (Rev. 2/87)

65

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

STATE OF MARYLAND
BOARD OF APPEALS - ROOM 515
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

333-5032

WILLIAM DONALD SCHAEFER
Governor

NOTICE OF APPEAL

Claimant's Name	Employer's Name	Date	Appeal No.	SS No.
CHARLES A. WILLIAMS	LOCKE INSULATORS, INC.	08/16/90	9008848	219-66-9682

Appellant: **CLAIMANT**

002

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Mail To:

**LOCKE INSULATORS, INC.
ATTN: WILLIAM HIEL
EMPLOYEE RELATIONS MANAGER
2525 INSULATOR DRIVE
BALTIMORE, MD 21230**

PAUL G. ZIMMERMANN
COUNSEL

Copies Mailed To:

**CHARLES A. WILLIAMS
1518 BELT STREET
BALTIMORE, MD 21230**

DEED/OU/AD 371 C (Rev. 2/87)

66

 **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.:	930-BR-90
	Date:	Sept. 17, 1990
Claimant	Appeal No.:	9008848
Charles Williams	S. S. No.:	219-66-9682
1518 Belt Street		
Baltimore, MD 21230		
<hr/>		
Employer:	L. O. No.:	2
Locke Insulators, Inc.	Appellant:	CLAIMANT
ATTN: William Hiel		
Employee Relations Mgr.		
2525 Insulator Drive		
Baltimore, MD 21230		
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 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 AT MIDNIGHT ON

October 17, 1990

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals adopts the facts and reasoning contained in the decision of the Hearing Examiner.

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DECISION

The claimant was discharged for gross misconduct, connected with his work, within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law. He is disqualified from receiving benefits from the week beginning May 20, 1990 and until he becomes re-employed, earns at least ten times his weekly benefit amount (\$1,810), and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is affirmed.

Thomas W. Keech

Chairman

Donna P. Watts

Associate Member

K:DW

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - GLEN BURNIE

FILED

OCT 12 1990

**CIRCUIT COURT FOR
BALTIMORE CITY**

CIRCUIT COURT

FOR **90285 042**

BALTIMORE CITY

CL 120734

CHARLES WILLIAMS

Claimant

v.

BOARD OF APPEALS
DEPARTMENT OF ECONOMIC AND
EMPLOYMENT DEVELOPMENT
STATE OF MARYLAND
1100 North Eutaw Street
Baltimore, Maryland 21206

and

LOCKE INSULATORS, INC
2525 Insulator Drive
Baltimore, Maryland 21230
Attention: William Hiel
Employer

Case No.: _____

* * * * *

ORDER FOR APPEAL

Please enter an appeal on behalf of Charles Williams, by Phyllis A. Hotchkiss, Esquire, from the decision no.: 930-BR-90 issued by the Board of Appeals, Department of Economic and Employment Development, State of Maryland, and rendered in the above captioned matter on September 17, 1990.

Charles Williams / PAF
Claimant

Phyllis A. Hotchkiss
Phyllis A. Hotchkiss, Esquire
5900 York Road, Suite 5
Baltimore, Md. 21212
(301) 828-6366
Attorney for the Claimant

COSTS WAIVED

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 12th day of Oct
1990, a copy of the foregoing Order was mailed to Alexander Wright, Jr.,
and Amy S. Scherr, Counsel for the Department of Economic Development,
State of Maryland, 217 East Redwood Street, 11th Floor, Baltimore, Md.
21202 and William Hiel, Employee Relations Manager, Locke Insulators,
Inc., 2525 Insulator Drive, Baltimore, Maryland 21230.

Phyllis A. Hotchkiss
Phyllis A. Hotchkiss, Esquire

CHARLES WILLIAMS

* IN THE

Claimant

* CIRCUIT COURT

v.

* FOR

BOARD OF APPEALS
DEPARTMENT OF ECONOMIC AND
EMPLOYMENT DEVELOPMENT
STATE OF MARYLAND
1100 North Eutaw Street
Baltimore, Maryland 21206

* BALTIMORE CITY

*

*

* Case No.: _____

and

*

LOCKE INSULATORS, INC
2525 Insulator Drive
Baltimore, Maryland 21230
Attention: William Hiel
Employer

*

*

* * * * *

PETITION

The Petition of Charles Williams, by Phyllis A. Hotchkiss, Esquire,
respectfully represents:

1. Claimant is aggrieved by a decision of the Board of Appeals which denied him unemployment insurance benefits rightfully due him as a result of his employment.

2. The Board of Appeals and the Hearing Examiner erred in it's interpretation of the meaning of gross misconduct within Section 6(b) of the Maryland Unemployment Insurance Law as per prior cases when applied to the facts in this case.

3. The Board erred for such other reasons as may become apparent from a reading of the record.

Phyllis A. Hotchkiss

Phyllis A. Hotchkiss, Esquire
5900 York Road, Suite 5
Baltimore, Md. 21212
(301) 828-6366
Attorney for the Claimant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 12th day of Oct 1990, a copy of the foregoing Petition was mailed to Alexander Wright, Jr., and Amy S. Scherr, Counsel for the Department of Economic Development, State of Maryland, 217 East Redwood Street, 11th Floor, Baltimore, Md. 21202 and William Hiel, Employee Relations Manager, Locke Insulators, Inc., 2525 Insulator Drive, Baltimore, Maryland 21230.

Phyllis A. Hotchkiss

Phyllis A. Hotchkiss, Esquire

D. Lee
2-1-10
Image 111

From: Jennifer Hafner
To: Ray Connor, Doris Byrne, Sheila Simms, Edward Papenfuse
Date: Monday, February 01, 2010 12:53:12 PM
Subject: MSA SC 5458-82-150, 1990 cases

These are the remaining 1990 cases. I have updated the work order.

Mayor AND City Council VS LOUDEN Box 1003 Case No. 90211027 [MSA T2691-3640, OR/11/15/36]
File should be named msa_sc5458_82_150_[full case number]-####

DESSESAURE VS ST PAUL RENTALS Box 1003 Case No. 90211028 [MSA T2691-3640, OR/11/15/36]
File should be named msa_sc5458_82_150_[full case number]-####

LANGREHR VS HOBBS Box 1010 Case No. 90215022 [MSA T2691-3647, OR/11/15/43]
File should be named msa_sc5458_82_150_[full case number]-####

OZOLIN VS BOARD OF APPEALS, ET. AL. Box 1060 Case No. 90243035 [MSA T2691-3697, OR/11/16/9]
File should be named msa_sc5458_82_150_[full case number]-####

WILLIAMS VS BD. OF APPEALS, ET. AL. Box 1129 Case No. 90285042 [MSA T2691-3766, OR/11/16/77]
File should be named msa_sc5458_82_150_[full case number]-####

DL 2-1-10 Image 111

BOST VS DISTANCE Box 1204 Case No. 90331026 [MSA T2691-3841, OR/11/17/68]
File should be named msa_sc5458_82_150_[full case number]-####

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