

6-29-2009

Ginther v. Boise Cascade Corp. Clerk's Record v. 1 Dckt. 36126

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36126

Vol. 1 of 1

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

BENJAMIN C. GINTHER,)
)
 Claimant/Appellant,)
)
 vs.)
)
 BOISE CASCADE CORPORATION,)
)
 Employer/Respondent,)
)
 IDAHO DEPARTMENT OF LABOR,)
)
 Respondent.)
)
)

SUPREME COURT NO. 36126

AGENCY'S RECORD

LAW CLERK

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

For Claimant/Appellant:

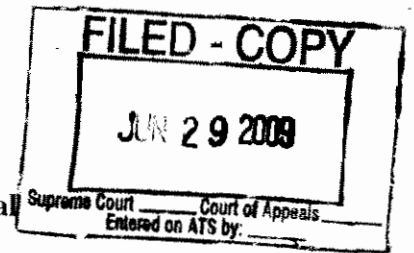
**Benjamin C. Ginther, Pro Se
2154 Oregon St., Sp. #42
St. Helens, OR 97051**

For Employer/Respondent:

**Boise Cascade Corporation
% Robert R. Ball
PO Box 50
Boise, ID 83701-0050**

For Respondent:

**Tracy Rolfsen
Deputy Attorney General
Idaho Dept. of Labor
317 W. Main Street
Boise, ID 83735**



36126

COPY

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

BENJAMIN C. GINTHER,)
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 Claimant/Appellant,)
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 BOISE CASCADE CORPORATION,)
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 Employer/Respondent,)
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 IDAHO DEPARTMENT OF LABOR,)
)
 Respondent.)
 _____)

SUPREME COURT NO. 36126

AGENCY'S RECORD

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

For Claimant/Appellant:

**Benjamin C. Ginther, Pro Se
2154 Oregon St., Sp. #42
St. Helens, OR 97051**

For Employer/Respondent:

**Boise Cascade Corporation
% Robert R. Ball
PO Box 50
Boise, ID 83701-0050**

For Respondent:

**Tracy Rolfsen
Deputy Attorney General
Idaho Dept. of Labor
317 W. Main Street
Boise, ID 83735**

 **COPY**

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LIST OF EXHIBITS

Hearing Transcript taken on December 15, 2008, will be lodged with the Supreme Court:

Exhibits admitted into record before Idaho Department of Labor

- | | | |
|----|---|----------|
| 1. | Notice of Telephone Hearing, mailed December 8, 2008 | 3 pages |
| 2. | Important Information about your Hearing Read Carefully | 2 pages |
| 3. | Interoffice memo, subject Termination, dated October 14, 2008 | 11 pages |
| 4. | Eligibility Determination Unemployment Insurance Claim | 2 pages |
| 5. | Request for Appeals Hearing | 1 page |
| 6. | Employers Data | 1 page |

IDAHO DEPARTMENT OF LABOR
APPEALS BUREAU
317 WEST MAIN STREET
BOISE, IDAHO 83735-0720
(208) 332-3572 / (800) 621-4938
FAX: (208) 334-6440

 **COPY**

BENJAMIN C. GINTHER,)
SSN: [REDACTED])
Claimant)
vs.)
BOISE CASCADE CORPORATION,)
Employer)
and)
IDAHO DEPARTMENT OF LABOR.)

DOCKET NUMBER 0692-2009
DECISION OF APPEALS EXAMINER

FILED
DEC 24 2008

INDUSTRIAL COMMISSION

DECISION

Benefits are **DENIED** effective October 12, 2008. The claimant was discharged for misconduct in connection with employment as defined by Section 72-1366 (5) of the Idaho Employment Security Law.

The employer's account is **NOT CHARGEABLE** for experience rating purposes, in accordance with Section 72-1351 (2)(a) of the Idaho Employment Security Law.

The Eligibility Determination dated November 5, 2008, is hereby **AFFIRMED**.

HISTORY OF THE CASE

The above-entitled matter was heard by Janet C. Hardy, Appeals Examiner for the Idaho Department of Labor, on December 15, 2008, by telephone in the City of Boise, in accordance with §72-1368 (6) of the Idaho Employment Security Law.

The claimant, Benjamin C. Ginther, appeared and presented evidence. It is noted that at the beginning of the hearing, the claimant requested to have his union representative (Phil) present. The Appeals Examiner attempted to contact the representative, and left a voice mail message. The claimant was offered a postponement until he could arrange for representation, and he declined.

The employer, Boise Cascade Corporation, was represented by Jan Ferris, hearing representative from Employer Advocates. Mark Aguirre, production manager; Steve Henke, process improvement manager; Tim Coggburn, production supervisor; and Joshua Smith, operator;

appeared as witnesses and provided testimony. Kathy Elliot, human resources specialist, was present as an observer.

Exhibits #1 through #6 were entered into and made a part of the record

Y9030

ISSUES

The issues before the Appeals Examiner are (1) whether unemployment is due to the claimant quitting voluntarily and, if so, whether with good cause connected with the employment -OR- being discharged and, if so, whether for misconduct in connection with the employment, according to §72-1366 (5) of the Idaho Employment Security Law; and (2) whether the employer's account is properly chargeable for experience rating purposes for benefits paid to the claimant, according to §72-1351 (2)(a) of the Idaho Employment Security Law.

FINDINGS OF FACT

Additional facts or testimony may exist in this case. However, the Appeals Examiner outlines only those that are relevant to the decision and those based upon reliable evidence. Based on the exhibits and testimony in the record, the following facts are found:

1. The claimant worked for this employer as a flexo operator from August 24, 2006 through October 14, 2008. In the first four of the five calendar quarters preceding the one in which the claimant applied for benefits, this employer paid more wages than any other.
2. The claimant was discharged for his failure to follow the quality check procedures. This resulted in running four pallets of boxes out of compliance and resulted in \$4,000 in lost revenue.
3. The claimant had been placed on a Last Chance Agreement on August 18, 2008 for prior failures in following the quality check procedures. He had also been suspended for job performance issues.
4. The claimant had the opportunity to grieve his last chance agreement as well as his termination under his union contract.

AUTHORITY

Section 72-1351 (2)(a) of the Idaho Employment Security Law provides in part that for experience rating purposes, no charge shall be made to the account of such covered employer with respect to benefits paid to a worker who terminated his services voluntarily without good cause attributable to such covered employer, or who had been discharged for misconduct in connection with such services.

Section 72-1366 (5) of the Idaho Employment Security Law provides that a claimant shall be eligible for benefits provided unemployment is not due to the fact that the claimant left employment voluntarily without good cause, or was discharged for misconduct in connection with employment.

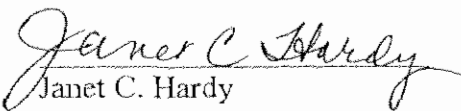
Misconduct within the meaning of an unemployment compensation act excluding from its benefit an employee discharged for misconduct must be an act of wanton or willful disregard of the employer's interest, a deliberate violation of the employer's rules, a disregard of standards of

behavior which the employer has the right to expect of his employee, or negligence in such degree or recurrence as to manifest culpability, wrongful intent, or evil design, or show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to the employer. Rasmussen vs. Employment Security Agency, 83 Idaho 198, 360 P.2d 90 (1961).

It is well settled that the burden of proving and establishing statutory eligibility for unemployment benefits rests with a claimant. Pyeatt vs. Idaho State University, 98 Idaho 424, 565 P.2d 1381 (1977), Hart vs. Deary High School, 126 Idaho 550, 552, 887 P.2d 1057, 1059 (1994).

CONCLUSIONS

After reviewing the record, the Appeals Examiner can only conclude the claimant was discharged for misconduct in connection with this employment. Benefits are denied. The employer's account is not held chargeable for experience rating purposes.


Janet C. Hardy
Appeals Examiner

Date of Mailing December 16, 2008 Last Day To Appeal December 30, 2008

APPEAL RIGHTS

You have FOURTEEN (14) DAYS FROM THE DATE OF MAILING to file a written appeal with the Idaho Industrial Commission. The appeal must be mailed to:

Idaho Industrial Commission
Judicial Division, IDOL Appeals
P.O. Box 83720
Boise, Idaho 83720-0041

Or delivered in person to: Idaho Industrial Commission
700 S. Clearwater Lane
Boise, Idaho 83712

Or transmitted by facsimile to (208) 332-7558, Attn: IDOL Appeals

If the appeal is mailed, it must be postmarked no later than the last day to appeal. An appeal filed by facsimile transmission must be received by the Commission by 5:00 p.m., Mountain Time, on the last day to appeal. A facsimile transmission received after 5:00 p.m. will be deemed received by the Commission on the next business day. A late appeal will be dismissed. Appeals filed by any means with the Appeals Bureau or an Idaho Department of Labor Local Office will not be accepted by the Commission. **TO EMPLOYERS WHO ARE INCORPORATED:** *If you file an appeal with the Idaho Industrial Commission, the appeal must be signed by a corporate officer or legal counsel licensed to practice in the State of Idaho and the signature must include the individual's title. The*

Commission will not consider appeals submitted by employer representatives who are not attorneys. If you request a hearing before the Commission or permission to file a legal brief, you must make these requests through legal counsel licensed to practice in the State of Idaho. Questions should be directed to the Idaho Industrial Commission, Unemployment Appeals, (208) 334-6024.

If no appeal is filed, this decision will become final and cannot be changed. **TO CLAIMANT:** If this decision is changed, any benefits paid will be subject to repayment. If an appeal is filed, you should continue to report on your claim as long as you are unemployed.

IDAHO DEPARTMENT OF LABOR
APPEALS BUREAU
317 WEST MAIN STREET
BOISE, IDAHO 83735-0720
(208) 332-3572 / (800) 621-4938
FAX: (208) 334-6440

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2008, a true and correct copy of **Decision of Appeals Examiner** was served by regular United States mail upon each of the following:

BENJAMIN C GINTHER
2154 OREGON ST, SP #42
ST HELENS OR 97051

BOISE CASCADE CORPORATION
C/O EMPLOYER ADVOCATES LLC
P O BOX 25236
SALT LAKE CITY UT 84125-0236

cc: Idaho Department of Labor Caldwell-Canyon County Local Office – Decision of Appeals Examiner



ATTN: IDOL Appeals

FILED

DEC 22 2008

INDUSTRIAL COMMISSION

Docket Number 0692-2009
Benjamin C. Ginther vs Boise Cascade Corporation

To Whom it may concern :

I would like to request a further appeal of unemployment benefits that were yet again denied. As the hearing went on I noticed a couple of documents that were discussed that I actually did not have, but felt it was to late to address this because the hearing was almost over. Another issue I want to address is the fact that the only person on the floor, at the machine was the assistant operator Josh Smith, who is also responsible for production As well as Quality and Safety. Even though it is the operator's responsibility to decide what is good and will be able to ship. It is also the responsibility of the assistant to make sure what he is stacking is good and if a defect is seen to stop the machine and notify the Operator so he can be able to make that decision. Tim stated that it is the responsibility of both the assistant and operator to maintain quality and production. When the machine went from a three man crew to a two man crew the responsibility of both the Assistant And the operator increased. Boise cascade stated that I lied about what happened that day, which I did not do. How do they know that josh isn't lying to save his own but. Everything they are going on is all hearsay nothing more. With that said this is what took place that day.

When I arrived, they were having an issue with counter ejector, josh went to back side of machine to check the ink, When he got back front side I ask him to go to the corner and recount the bundles and to keep an eye on the ink (which he failed to do) as I had to make an adjustment because ink was to thick, and had some other issues up front and would be their awhile. When I went up to front I made an adjustment and took care of the issues their and when I returned I did another quality check only to find the defect I then shut the machine down and fixed the problem, Now if the assistant was watching for any changes as I asked we would not have had this issue. Therefore this is not my fault. And should be granted my Benefits So that I can move on

Sincerely

Benjamin C. Ginther

INDUSTRIAL COMMISSION

DEC 22 2008

FILED

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BENJAMIN C. GINTHER,)
SSN: [REDACTED])
)
Claimant,)
)
vs.)
)
BOISE CASCADE CORPORATION,)
)
Employer,)
)
and)
)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0692-2009

NOTICE OF FILING OF APPEAL

FILED

DEC 29 2008

INDUSTRIAL COMMISSION

PLEASE TAKE NOTICE: The Industrial Commission has received an appeal from a decision of an Appeals Examiner of the Idaho Department of Labor. A copy of the appeal is enclosed. Documents that are already part of the record or file will not be copied.

Further action will be taken by the Industrial Commission in accordance with its Rules of Appellate Practice and Procedure, a copy of which is enclosed.

PLEASE READ ALL THE RULES CAREFULLY

The Commission will make its decision in this appeal based on the record of the proceedings before the Appeals Examiner of the Idaho Department of Labor. To request a briefing schedule or hearing, refer to Rule 4(A) and 6(A,B) of the Rules of Appellate Practice and Procedure.

INDUSTRIAL COMMISSION
UNEMPLOYMENT APPEALS DIVISION
POST OFFICE BOX 83720
BOISE IDAHO 83720-0041
(208) 334-6024

CERTIFICATE OF SERVICE

I hereby certify that on the 29TH day of December, 2008, a true and correct copy of the **Notice of Filing of Appeal and compact disc of the Hearing** was served by regular United States mail upon the following:

APPEAL ONLY:

BOISE CASCADE CORPORATION
C/O EMPLOYER ADVOCATES LLC
PO BOX 25236
SALT LAKE CITY UT 84125-0236

APPEAL AND DISC:

BENAMIN C GINTHER
2154 OREGON ST SP #42
ST HELENS OR 97051

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs



Assistant Commission Secretary

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CRAIG G. BLEDSOE - ISB# 3431
KATHERINE TAKASUGI - ISB# 5208
TRACEY K. ROLFSEN - ISB# 4050
CHERYL GEORGE - ISB# 4213
Deputy Attorneys General
Idaho Department of Labor
317 W. Main Street
Boise, Idaho 83735
Telephone: (208) 332-3570 ext. 3184

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BENJAMIN C. GINTHER,)
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 Claimant,)
)
 vs.)
)
 BOISE CASCADE CORPORATION,)
)
 Employer,)
)
 and)
)
 STATE OF IDAHO,)
 DEPARTMENT LABOR.)
 _____)

IDOL NO. 0692-2009

NOTICE OF APPEARANCE

FILED

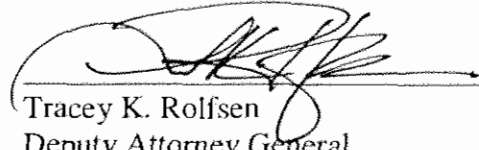
JAN 09 2009

INDUSTRIAL COMMISSION

TO THE ABOVE-NAMED PARTIES:

Please be advised that the undersigned Deputy Attorney General representing the Idaho Department of Labor hereby enters the appearance of said attorneys as the attorneys of record for the State of Idaho, Department of Labor, in the above-entitled proceeding. By statute, the Department of Labor is a party to all unemployment insurance appeals in Idaho.

DATED this 6TH day of January, 2009.


Tracey K. Rolfsen
Deputy Attorney General
Attorney for the State of Idaho,
Department of Labor

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a copy of the foregoing NOTICE OF APPEARANCE, was mailed, postage prepaid, this 6TH day of January, 2009, to:

BENJAMIN C GINTHER
2154 OREGON ST SP 42
ST HELENS OR 97051

BOISE CASCADE CORPORATION
C/O BOX 25236
SALT LAKE CITY UT 84125-0236



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BENJAMIN C. GINTHER,)
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 Claimant,)
)
 vs.)
)
 BOISE CASCADE CORPORATION,)
)
 Employer,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR.)
)
 _____)

IDOL # 0692-2009
DECISION AND ORDER
FILED
JAN 28 2009
INDUSTRIAL COMMISSION

Claimant, Benjamin C. Ginther, appeals the Decision of the Idaho Department of Labor (IDOL) finding him ineligible for unemployment insurance benefits. The Appeals Examiner found that: (1) Claimant was discharged for misconduct in connection with the employment; and (2) Employer’s account is not chargeable for experience rating purposes. In his appeal, Claimant states that he did not receive all of the exhibits discussed in the hearing. We will address this issue below.

The undersigned Commissioners have conducted a *de novo* review of the record pursuant to Idaho Code § 72-1368(7) and opinions issued by the Idaho Supreme Court. The Commission has relied on the audio recording of the hearing before the Appeals Examiner held on December 15, 2008, along with Exhibits [1 through 6] admitted into the record during that proceeding.

DUE PROCESS

Claimant stated in his appeal that during the hearing he noticed that he did not have a couple of documents that were discussed, however he failed to mention it because the hearing was almost over. (Claimant’s Appeal, filed December 22, 2008). Parties are entitled to a fair

hearing. Pursuant to 42 U.S.C. § 503(a)(3) (2006), Idaho must provide an “Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied.” After careful review of the record, we find that Claimant received a fair hearing.

Claimant did not identify which documents he was missing. Therefore, it is unclear from Claimant’s appeal whether the documents he refers to are documents contained in the exhibits or external documents Employer referred to at hearing, but which were not made a part of the record. We note that at the beginning of the hearing, the Appeals Examiner commented on the number of exhibits and went through the exhibits with the parties. During that time, Claimant did not object or raise a concern that he was missing any of the exhibits. Further, Claimant did not raise this issue when he noticed it during the hearing. Even if the hearing was near the end, Claimant still had the responsibility to inform the Appeals Examiner of any missing documents.

Therefore, since the Appeals Examiner went through the exhibits at the start of the hearing and that Claimant did not object leads us to believe that the documents Claimant is now referring to were not part of the record. However, in the alternative, Claimant was still under an obligation to inform the Appeals Examiner of the missing items. He failed to do so. Additionally, Claimant has not indicated which documents he was missing. Therefore, after careful review of the record, we can find no due process violation or any other reason to remand this matter back to the Appeals Bureau.

FINDINGS OF FACTS

The Commission concurs with and adopts the Findings of Fact set forth in the Appeals Examiner’s Decision.

DISCUSSION

Both parties agree that Claimant was discharged. Claimant was given a Last Chance Agreement on August 18, 2008, for, among other things, failing to follow quality check procedures. At the start of his/her shift, the operator runs a set-up box to make sure the machine is running properly and the product is as ordered. Around October 9, 2008, Claimant and his assistant produced more than 2000 boxes without running a quality check first. The boxes all had print defects and could not be shipped to the customer. The approximate loss to Employer was \$4,000.00. Claimant avers that he did run a quality check and that he and his assistant are both responsible for making sure the boxes conformed to the customer's specifications.

Idaho Code § 72-1366(5), provides in part that a claimant is eligible for unemployment insurance benefits if that individual was discharged for reasons other than employment-related misconduct. The burden of proving misconduct falls strictly on the employer, and where the burden is not met, benefits must be awarded to the claimant. Roll v. City of Middleton, 105 Idaho 22, 25, 665 P.2d 721, 724 (1983); Parker v. St. Maries Plywood, 101 Idaho 415, 419, 614 P.2d 955, 959 (1980). The Idaho Supreme Court has defined misconduct as a willful, intentional disregard of the employer's interest; a deliberate violation of the employer's rules; or a disregard of standards of behavior which the employer has a right to expect of its employees. Gunter v. Magic Valley Regional Medical Center, 143 Idaho 63, 137 P.3d 450 (2006) (*citing* Johns v. S. H. Kress & Company, 78 Idaho 544, 548, 307 P.2d 217, 219 (1957)). In addition, the Court requires the Commission to consider all three grounds in determining whether misconduct exists. Dietz v. Minidoka County Highway Dist., 127 Idaho 246, 248, 899 P.2d 956, 958 (1995).

While the Supreme Court has defined 3 separate definitions for willful misconduct, the appropriate analysis here is the "standards-of-behavior" test. Under this test, the employer must

prove by a preponderance of the evidence that the claimant's conduct fell below the standard-of-behavior it expected and that the employer's expectation was objectively reasonable under the particular circumstances. Harris v. Electrical Wholesale, 141 Idaho 1, 105 P.3d 267 (2004). Further, the employer must communicate expectations and duties that do not naturally flow from the employment relationship. Pinley v. Best Values, Inc., 132 Idaho 432, 974 P.2d 78 (1999).

In this case, Employer has an objectively reasonable expectation that its employees will follow procedures to ensure that the product produced will conform to the customer specifications. This expectation was communicated to Claimant twice. The first occurred on August 1, 2008, when Claimant was warned and suspended for failing to run a pre-start quality check and nonconforming boxes were produced. (Exhibit 3, p. 5). Claimant was again warned of failing to perform quality checks on August 18, 2008, in a Last Chance Agreement. (Exhibit 3, p. 4). The Last Chance Agreement warned that any unacceptable job performance would result in disciplinary action including termination of employment. (Exhibit 3, p. 4). Claimant signed both of these warnings. (Exhibit 3, p. 4-5). Therefore, we find Employer's expectation reasonable and that it was adequately communicated to Claimant.

We must next determine whether Claimant's conduct fell below this communicated standard-of-behavior. Claimant testified that he was ultimately responsible for running the pre-start quality check which included making a check-out box. (Audio Recording). This box was used to check conformity and determining whether to run the product. (Audio Recording). While both the operator and the assistant were responsible for the quality of the item produced, it was ultimately the operator's decision on whether to produce the item based on the quality of the check-out box. Claimant testified that this was true at the hearing. (Audio Recording). On

October 9, 2008, Claimant stated that the shift before his was having difficulty with the machine. (Audio Recording).

Claimant maintains that he followed quality procedures. However, after running four pallets of the boxes, Claimant discovered a printing error. (Audio Recording). Employer's supervisor, Tim Coggburn, testified that the check-out box Claimant gave him did not match any of the boxes that Claimant had run. (Audio Recording). Mr. Coggburn stated that if the check-out box was run at the start of the shift, there should have been at least one box that matched the check-out box. (Audio Recording). Based on that discrepancy, Mr. Coggburn looked at the boxes that were run by the shift before. (Audio Recording). He found that the prior shift's boxes had the same defect as the boxes Claimant had produced. (Audio Recording). Joshua Smith, the assistant operator working with Claimant, testified that the check-out box was run after the defect was noticed and Claimant fixed the problem. (Audio Recording).

While Claimant acknowledged that it was ultimately the operator's decision to run the product, Claimant contends that the assistant operator also carried some responsibility in the quality of the product. (Audio Recording). We have no reason to doubt this point. However, the record has sufficiently established that Claimant, as the operator, was ultimately the one responsible for checking the quality of the product and determining whether to run the product. Had Claimant produced a check-out box at the start of his shift, he should have noticed the printing defect and corrected the problem prior to printing 4 pallets of defective boxes. Therefore, we find that Claimant's conduct fell below the standards-of-behavior that had been communicated to him in his prior warnings.

Based on the above reasons, Claimant was discharged for misconduct in connection with his employment and is ineligible for unemployment benefits.

CONCLUSIONS OF LAW

I

We conclude that Claimant was discharged from employment for misconduct.

II


We further conclude that Employer's account is not chargeable for experience rating purposes.

ORDER

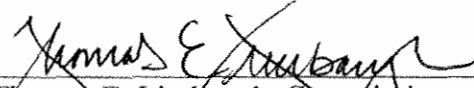
Based on the foregoing analysis, the Decision of the Appeals Examiner is AFFIRMED. Claimant is ineligible for unemployment insurance benefits. Employer's account is not chargeable for experience rating purposes. This is a final order under Idaho Code § 72-1368(7).

DATED this 28 day of January, 2009.

INDUSTRIAL COMMISSION



R.D. Maynard, Chairman



Thomas E. Limbaugh, Commissioner



James F. Kile, Commissioner

ATTEST:



Assistant Commission Secretary



CERTIFICATE OF SERVICE

I hereby certify that on the 28 day of January, 2009, a true and correct copy of **Decision and Order** was served by regular United States Mail upon each of the following:

BOISE CASCADE CORPORATION
C/O EMPLOYER ADVOCATES LLC
PO BOX 25236
SALT LAKE CITY UT 84125-0236

BENAMIN C GINTHER
2154 OREGON ST SP #42
ST HELENS OR 97051

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs

A handwritten signature in black ink, appearing to read "M. C. Smith", is written over a horizontal line. The signature is stylized and includes a large, looping flourish on the left side.

To Whom it may Concern:

I would like to Request that your decision to deny my Benefits, Be Forwarded to the Supreme Court For Further Appeals process.

I would also Request that the filing fee be waived do to lack of employment.

I Have Been unemployed since OCT 15 2008 and am Financially unable to Pay the Fee at this time. Also I am Contacting my local legal aid office to hopefully acquire a Attorney to Represent me with this matter. I did my Job in order to avoid The mistake That was made. But again the mistake was NOT mine it was the assistant, I am The one That Caught The mistake, NOT The one That Caused IT.

POST OFFICE BOX 1000
FEDERAL A 10:50
COMMUNICATIONS DIVISION

P.S.

I may need
to Have all
documents & CD
sent to me For
again For
attorney.

Sincerely

Benjamin P. Gintyre

Benjamin P. Gintyre

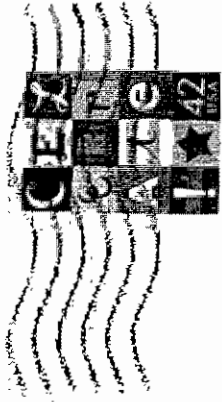
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State of Idaho

Industrial Commission

700 So. Clearance Ln.

Boise, ID 83720-9041

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BENJAMIN C. GINTHER,)
)
 Claimant,)
)
 vs.)
)
 BOISE CASCADE CORPORATION,)
)
 Employer,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR.)
)

IDOL # 0692-2009

FILED

FEB 05 2009

INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of February, 2009 a true and correct copy of **Appeal to the Supreme Court, filed February 2, 2009** was served by regular United States mail upon the following:

BOISE CASCADE CORPORATION
C/O EMPLOYER ADVOCATES LLC
PO BOX 25236
SALT LAKE CITY UT 84125-0236

DEPUTY ATTORNEY GENERAL,
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs


Assistant Commission Secretary

cc: BENJAMIN C GINTHER
2154 OREGON ST SP #42
ST HELENS ORE 97051

FEB - 6 AM 9:06

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

BENJAMIN C. GINTER,)
)
 Claimant/Appellant,)
)
 vs.)
)
 BOISE CASCADE CORPORATION,)
)
 Employer/Respondent,)
)
 IDAHO DEPARTMENT OF LABOR,)
)
 Respondent.)
)

SUPREME COURT NO. 36126

CERTIFICATE OF APPEAL

Appeal From: Industrial Commission,
R.D. Maynard, Chairman, presiding.

Case Number: IDOL #0692-2009

Order Appealed from: Decision and Order, filed on January 28, 2009

Representative for Claimant: Benjamin C. Ginter, Pro Se
2154 Oregon St. Sp #42
St Helens OR 97051

Representative for Employers: Boise Cascade Corporation
C/O Employer Advocates LLC
PO Box 25236
Salt Lake City UT 84125-0236

Representative for IDOL: Tracy Rolfsen
Deputy Attorney General
Idaho Department of Labor
317 W. Main St
Boise, Idaho 83735

Appealed By: Claimant/Appellant

CERTIFICATE OF APPEAL - 1

FILED - ORIGINAL
FEB - 6 2009
Supreme Court Court of Appeals
Entered on ATS by DB

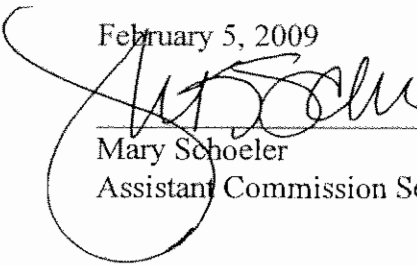
Appealed Against: Employer/Respondent
and
Idaho Department of Labor/Respondent

Notice of Appeal Filed: February 2, 2009

Appellate Fee Paid: None

Transcript: Transcript will be ordered

Dated: February 5, 2009


Mary Schoeler
Assistant Commission Secretary



CERTIFICATION

I, Mary Schoeler, the undersigned Assistant Commission Secretary of the Industrial Commission of the State of Idaho, hereby CERTIFY that the foregoing is a true and correct photocopy of the Notice of Appeal filed February 2, 2009, and Decision and Order, filed January 28, 2009; and the whole thereof.

DATED: February 5, 2009


Mary Schoeler
Assistant Commission Secretary



The seal is circular with a dotted border. The text "INDUSTRIAL COMMISSION" is written along the top inner edge, and "STATE OF IDAHO" is written along the bottom inner edge. A five-pointed star is located on the right side of the inner border. In the center of the seal, the word "SEAL" is printed in a large, bold, sans-serif font.

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

RECEIVED
IDaho SUPREME COURT
APPEALS

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BENJAMIN C. GINTHER,)
)
Claimant/Appellant,)
)
vs.)
)
BOISE CASCADE CORPORATION,)
)
Employer/Respondent,)
)
IDAHO DEPARTMENT OF LABOR,)
)
Respondent.)
_____)

SUPREME COURT NO. 36126

AMENDED CERTIFICATE
OF APPEAL CORRECTING
APPELLANT'S NAME

FILED - ORIGINAL
FEB 18 2009
Supreme Court Court of Appeals
Entered on ATS by DB

Appeal From: Industrial Commission,
R.D. Maynard, Chairman, presiding.

Case Number: IDOL #0692-2009

Order Appealed from: Decision and Order, filed on January 28, 2009

Representative for Claimant: Benjamin C. Ginther, Pro Se
2154 Oregon St. Sp #42
St Helens OR 97051

Representative for Employers: Boise Cascade Corporation
C/O Employer Advocates LLC
PO Box 25236
Salt Lake City UT 84125-0236

Representative for IDOL: Tracy Rolfsen
Deputy Attorney General
Idaho Department of Labor
317 W. Main St
Boise, Idaho 83735

Appealed By: Claimant/Appellant

AMENDED CERTIFICATE OF APPEAL CORRECTING APPELLANT'S NAME - 1

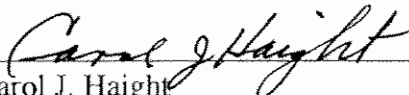
Appealed Against: Employer/Respondent
and
Idaho Department of Labor/Respondent

Notice of Appeal Filed: February 2, 2009

Appellate Fee Paid: None

Transcript: Transcript will be ordered

Dated: February 17, 2009



Carol J. Haight
Assistant Commission Secretary

Benjamin C. Ginther
391 so. 16th Street
St. Helens Oregon 97051
503-201-8556

2009 APR 20 PM 12: 54
RECEIVED
INDUSTRIAL COMMISSION

IN THE DISTRICT COURT OF THE 3rd JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Canyon IN THE (PUBLIC UTILITIES COMMISSION) (INDUSTRIAL COMMISSION) OF THE STATE OF IDAHO

Benjamin C. Ginther)
(Claimant/Appellant))
VS)
Boise Cascade Corperation)
Idaho Department of Labor)
(Respondant)

Case No. 36126-2009
NOTICE OF APPEAL
(Amended)

TO: THE ABOVE NAMED RESPONDENT(S), Boise Cascade Corperation & Idaho Department of labor, AND THE PARTY'S ATTORNEYS, AND THE CLERK OF THE ABOVE-ENTITLED COURT (Industrial Commission).

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellant,(Benjamin C. Ginther) , appeal(s) against the above-named respondent's (Boise Cascade Corperation & Idaho Department of Labor) to the Idaho Supreme Court from (Decision of order) entered in the above-entitled action (proceeding) on the 28th day of January , (Chairman RD. Maynard) presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule [e.g. (11(a)(2)) or (12(a))] I.A.R.

3. A preliminary statement of the issues on appeal which the appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal.

4. Has an order been entered sealing all or any portion of the record? If so, what portion?

5.(a) Is a reporter's transcript requested? yes

(b) The appellant requests the preparation of the following portions of the reporter's transcript: e.g.

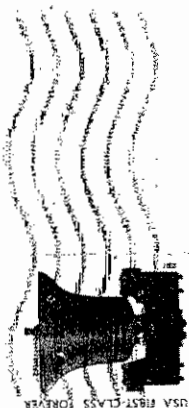
Residence

Bentley C. Collier
351 S. 16th
St. Helens OR. 97051

2009 APR 20 PM 12: 54

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INDUSTRIAL COMMISSION

PORTLAND OR 9722
12 APR 2009 PM 5 L



Idaho Industrial Commission
700 S. Clearwater Lane
Boise ID 83712-7708
ATTN: unemployment Appeals.

4975 0-00000

Boise, Idaho, Portland, Oregon

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BENJAMIN C. GINTHER,)
)
Claimant/Appellant,)
)
vs.)
)
BOISE CASCADE CORPORATION)
)
Employer/Respondent)
)
and)
)
IDAHO DEPARTMENT OF LABOR.)
_____)

SUPREME COURT #36126-2009

IDOL # 0692-2009

FILED
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INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 21ST day of April, 2009, a true and correct copy of Claimant's Amended Notice of Appeal, filed April 20, 2009, was served by regular United States mail upon the following:

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

IDAHO SUPREME COURT
STATEHOUSE MAIL
PO BOX 83720
BOISE IDAHO 83720-0101

mcs

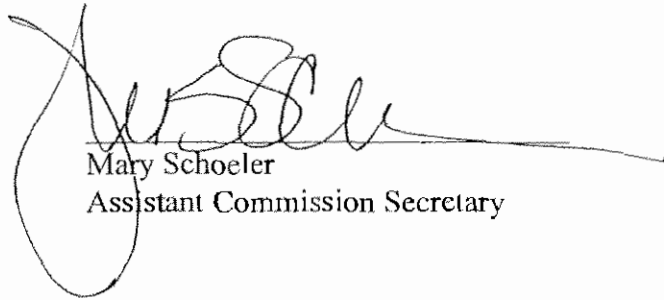

Assistant Commission Secretary

cc: BENJAMIN GINTHER
391 S 16TH ST
ST HELENS, OR 97051

CERTIFICATION

I, Mary Schoeler, the undersigned Assistant Commission Secretary of the Industrial Commission of the State of Idaho, hereby CERTIFY that the foregoing is a true and correct photocopy of the Amended Notice of Appeal filed April 20, 2009, and the whole thereof.

DATED: April 21, 2009



Mary Schoeler
Assistant Commission Secretary

CERTIFICATION OF RECORD

I, Carol Haight, the undersigned Assistant Commission Secretary of the Industrial Commission, do hereby certify that the foregoing record contains true and correct copies of all pleadings, documents, and papers designated to be included in the Agency's Record on appeal by Rule 28(3) of the Idaho Appellate Rules and by the Notice of Appeal, pursuant to the provisions of Rule 28(b).

I further certify that all exhibits admitted in this proceeding are correctly listed in the List of Exhibits (i). Said exhibits will be lodged with the Supreme Court after the Record is settled.

DATED this 22nd day of May, 2009.

Carol J. Haight
Assistant Commission Secretary



BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

BENJAMIN C. GINTHER,)
)
 Claimant/Appellant,)
)
 vs.)
)
 BOISE CASCADE CORPORATION,)
)
 Employer/Respondent,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR,)
)
 Respondent.)
 _____)

SUPREME COURT NO: 36126
NOTICE OF COMPLETION

TO: STEPHEN W. KENYON, Clerk of the Courts; and
Benjamin C. Ginther, Pro Se, Claimant/Appellant; and
Robert R. Ball, Employer/Respondent, and
Tracy Rolfsen, Idaho Department of Labor, Respondent.

YOU ARE HEREBY NOTIFIED that the Agency's Record was completed on this date and,
pursuant to Rule 24(a) and Rule 27(a), Idaho Appellate Rules, copies of the same have been served
by regular U.S. mail upon each of the following:

For Claimant/Appellant: Benjamin C. Ginther, Pro Se
2154 Oregon St., Sp. #42
St. Helens, OR 97051

For Employer/Respondent: Boise Cascade Corporation
% Robert R. Ball
PO Box 50
Boise, ID 83701-0050

NOTICE OF COMPLETION - 1

For Respondent:

Tracy Rolfsen
Deputy Attorney General
Idaho Dept. of Labor
317 W. Main Street
Boise, ID 83735

YOU ARE FURTHER NOTIFIED that pursuant to Rule 29(a), Idaho Appellate Rules, all parties have twenty-eight days from the date of this Notice in which to file objections to the Agency's Record or Reporter's Transcript, including requests for corrections, additions or deletions. In the event no objections to the Agency's Record or Reporter's Transcript are filed within the twenty-eight day period, the Agency's Record and Reporter's Transcript shall be deemed settled.

DATED this 22nd day of May, 2009.


Assistant Commission Secretary

