

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Appellate Case No. 2017 - 002378

Shirley C. Robinson, Administrative Law Judge

Case No. 17-ALJ-22-0224-AP

RECEIVED
SEP 06 2018
SC Court of Appeals

Ross Buchanan , Appellant v. South Carolina Dept. of Employment and Workforce and
Upstate Machine and Manufacturing, LLC., Respondents

RECORD ON APPEAL

RESPONDENTS

Ms. Sandra Bell Grooms
Office Of General Counsel
PO Box 8597
Columbia SC 29202
(803) 737 - 0395

Mrs. Chelsea Raegan Rikard, Esquire
1989 Pine Street
Spartanburg SC 29302
(864) 699 - 9803

Mr. Thomas Alexander Belenchia, Esquire
PO Box 3421
Spartanburg SC 29304
(864) 308 - 2486

APPELLANT

Ross E. Buchanan, pro se
73 Doris Lisa view drive.
Hendersonville NC 28792
(828) 685 - 7556

(828) 685 - 7556

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Ross Buchanan,
Appellant,

vs.

South Carolina Department of Employment
and Workforce and Upstate Machine & Mfg.,
Respondents,

) Docket No. 17-ALJ-22-0224-AP
)
)

RECORD ON APPEAL
)
)
)

APPEAL FROM SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT
AND WORKFORCE APPELLATE
PANEL

Ross Buchanan
73 Doris Lisa View Dr.
Hendersonville NC 28792
Appellant

Sandra Grooms
Office of General Counsel-SCDEW
PO Box 8597
Columbia, SC 29202
803-737-0395
legal@dew.sc.gov
Attorney for Respondent DEW

Chelsea Rickard
PO Box 3421
Spartanburg SC 29304
Respondent Attorney

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) CERTIFICATION

The South Carolina Department of Employment and Workforce, by its Legal Department, hereby certifies that the attached hereto is a true and correct copy of the Record on Appeal in the matter of Buchanan v. SCDEW & Upstate together with Machine & Mfg a true and correct copy of the original decision of the Appellate Panel therein.

THE SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE

Kristi Chesley
Kristi Chesley, Administrative Legal Assistant

Columbia, South Carolina

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DECISION NO: 2017-P-04668

APPEAL NO: 1702972

**SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina**

ROSS BUCHANAN

[REDACTED]

CLAIMANT SSN:

[REDACTED]

**APPELLATE PANEL
DECISION**

**UPSTATE MACHINE AND
MANUFACTURING, LLC
485 WALNUT HILL ROAD
CAMPOBELLO, SC 29322**

Appellant: Claimant

The claimant appealed Appeal Tribunal Decision 2017-A-03284 to the Appellate Panel. The Tribunal held the claimant disqualified from benefits, upon finding he was discharged for misconduct. This decision affirmed the claims adjudicator's determination.

The Appellate Panel issued its decision upon review of the record on appeal.

DECISION

Appeal Tribunal Decision 2017-A-03284 is affirmed. The claimant is disqualified from benefits for twenty weeks, from February 5, 2017, to June 24, 2017, with a corresponding monetary reduction, upon finding he was discharged for misconduct connected with the employment.

The claimant worked from June 15, 2015, to February 8, 2017, most recently as a CNC machine operator. The employer discharged the claimant for requesting a raise in exchange for restoring programs he deleted on the employer's equipment. The employer granted the claimant a week of vacation. While the claimant was out, the manager noticed the programs were deleted on three machines the claimant regularly used. The remaining employees were unaware the claimant had deleted the programs off of the machines. When the claimant returned, the manager requested he begin working on a project. A few hours later, the manager contends the claimant approached him and stated he could reinstall the programs and complete the task for additional money. The manager inferred the claimant's statement as an attempt to extort the employer. Consequently, the employer discharged the claimant. The claimant asserts he was discharged for stating he needed to discuss an unresolved financial situation. He further asserts he regularly deleted the programs because of limited memory and power on the machines, and that he kept the programs

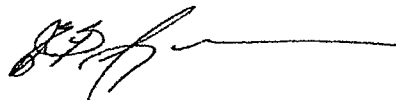
Date Mailed: 5/12/2017

written in a notebook. The claimant stated he had been regularly requesting a pay increase since October 2016. The manager maintains there was enough memory on the machines to retain the programs and that it cost approximately four hours of production time to rewrite the programs. The manager acknowledges the claimant discussed a pay increase in the past because the claimant was demoted from a management position based on his lack of people skills. The claimant denies he attempted to extort the employer.

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of an employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

The statements presented are in dispute; however the greater weight of credible evidence establishes the claimant requested a pay increase in exchange for restoring programs he deleted on the employer's equipment. For the limited purposes of determining unemployment insurance benefits, we find the claimant's testimony lacks credibility that he was terminated for requesting a pay increase based upon the undisputed testimony that the claimant regularly spoke with the manager about a pay increase. The claimant's conduct in demanding the employer pay him additional money in exchange for reinstalling programs onto the employer's equipment was a deliberate disregard for the standard of behavior the employer had the right to expect. Therefore, we find the claimant was discharged for misconduct connected with the employment. The Appeal Tribunal decision is affirmed.

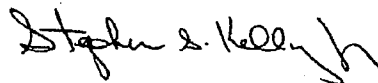
**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**



E.B. Ayers



Tim Dangerfield



Stephen S. Kelly, Jr.

Review Date : 5/9/2017

Date Mailed: 5/12/2017



SC Department of Employment and Workforce Initial Claims Application

Filing location: Home
Office location: INTERSTATE Claim
Claim creator: Claimant
Worked under a different name: No

Ethnicity

Claimant Hispanic or Latino: No

Claimant

Claimant's name: Ross Buchanan
Date of birth: [REDACTED]
Gender: Male
US citizen: Yes

Aliases

Alias type: SocialSecurityCard
Name: Ross Buchanan

Alias type: Current
Name: Ross Buchanan

Race(s)

* White

Addresses

Address type: physical
Address: [REDACTED]
United States address: Yes

Address type: mailing
Address: [REDACTED]
United States address: Yes

Telephone Number

Telephone number type: Home
Telephone number: 828-460-2563 Ext:

Email Address(es)

Email address type: Personal
Email address: cncreb@hotmail.com
Email certification: Yes

Alien Information

Alien card number: None

Expiration date: No

Veteran Information

Service branch: None

Date entered:

Date released:

Character of service: None

Reason for separation:

Completed first full term of service: No

In the National Guard or a Reserve Unit and served on active No
duty during a period of war or in a campaign or expedition:

Served on active duty in the military for a period of more than 180 days: No

Separated from military in the last 48 months: No

Accrued days lost: No

Accrued leave: 0

(Item #16 on DD-214)

Pay grade:

(Item #4b on DD-214)

Retired from military service: No

Have a service related disability: No

Percent disabled: 0%

Awarded a campaign badge or ribbon for service during a conflict: No

Badges and ribbons: None

Will receive pension: No

Have you worked in the last 18 months : Yes

Employer Name: UPSTATE MACHINE AND MANUFACTURING LLCEmployer delivery address: 485 WALNUT HILL RDEmployer city: CAMPOBELLOEmployer state: SCEmployer zip code: 29322Employer telephone number: 8644729091Bonafide employer: YesWorked for this employer: YesWorked part-time only: NoHire date: 6/15/2015Termination date: 2/8/2017Gross amount made during claim filing week: \$56.00Type of work: Computer-Controlled Machine Tool Operators, MetalEarned at least \$2,608.00: YesOccupational license required: NoJob city: CampobelloJob state: South CarolinaJob duties: cnc machiningChild or spouse of employer: NoOwner or corporate officer of a business: NoAccepting all work offered by the employer: YesInitiated reduction in work hours: NoDischarge reason: Discharged/Terminated/FiredDischarge explanation: Asked employer to discuss my pay and was told to pack up and get out.**Discharge**Discharge Reason: OtherDate of final incident: 2/8/2017

Final incident that caused discharge:

Asked employer to discuss pay and was told to pack up and get out.Discharge date: 2/8/2017Discharged by: Stan CannonTitle of person who discharged you: ownerViolated company policy: NoFinal incident impacted employer's business: Yes

Explain how employer's business was impacted:

I imagine they are having difficulty meeting production quotas since I was a key employee there. I did ask if he was serious about telling me to get my tools and leave, and he repeated it sternly, so I complied. Later that day the office mgr texted me that my last check would be ready for me the next day at noon, so I assumed that his decision was indeed, final.Received prior warnings: NoFederal employer: NoReceived SF8 form: NoPayroll office address based on SF8: No

Job Registration

Spouse of a veteran: No
Spouse of a deceased veteran with a total disability rating: No
Spouse of a 100% total disabled veteran: No
Spouse of a veteran killed in the line of duty: No
Spouse of a MIA or POW: No
Worked on a farm: No
Worked in a food processing plant: No

Farm Worker Information

Earned at least half income performing farm work in the last 12 months: No
Employed all year in farm work: No
Traveled to perform farm work: No
Worked at least 25 days or parts of days during the last 12 months performing farm work: No

Food Processing Information

Earned at least half income performing food processing in the last 12 months: No
Employed all year in food processing: No
Traveled to perform food processing: No
Worked at least 25 days or parts of days during the last 12 months performing food processing: No
Do you have a valid driver's license: No

Additional Claim Information

Filed UI claim outside SC in the last 18 months: No
Worked in state outside SC in the last 18 months: No
Filed claim for Trade Readjustment Allowances(TRA): No
Filed claim for Disaster Unemployment Assistance(DUA): No
Receive or have received Federal-Funded assistance: No
Receive or have received retirement: No
Receive or have received federal civilian employee benefits: No
Receive or have received federal military employee benefits: No
Claimant wants taxes withheld from unemployment benefits: Yes

Extra Earned Income

Pension amount: \$0.00

Pension paid by:

Employer pension contribution percentage:

Pension effective date:

Retirement amount: \$0.00

Retirement paid by:

Employer retirement contribution percentage:

Retirement effective date:

Disability amount: \$0.00

Disability paid by:

Disability effective date:

Social security amount: \$0.00

Social security effective date:

Job Eligibility

Only available for part-time work: No

Willing to relocate: Yes

Can begin work immediately: Yes

Children or dependants in household who require care during working hours: No

Self-Employed: No

Self-Employed job title:

Will be recalled to last job: No

Date of recall to last job:

Have a health condition that limits ability to accept full-time work now or in the future: No

Date This Condition Began: N/A

Condition Details: None

Health status explanation: None

Willing to look for other types of work: Yes

Kind of Jobs Seeking

Installation, Maintenance, and Repair Workers, All

Years of experience: Greater Than One Year

Computer Programmers

Years of experience: Greater Than One Year

Last Job

Rate of pay on last job: \$40,000.00

Unit of pay on last job: Yearly

Job Schedule Availability

Monday

Start time: 8:00 AM

End time: 4:30 PM

Monday

Start time: 8:00 AM

End time: 4:30 PM

Tuesday

Start time: 8:00 AM

End time: 4:30 PM

Tuesday

Start time: 8:00 AM

End time: 4:30 PM

Wednesday

Start time: 8:00 AM

End time: 4:30 PM

Wednesday

Start time: 8:00 AM

End time: 4:30 PM

Thursday

Start time: 8:00 AM

End time: 4:30 PM

Thursday

Start time: 8:00 AM

End time: 4:30 PM

Friday

Start time: 8:00 AM

End time: 4:30 PM

Friday

Start time: 8:00 AM

End time: 4:30 PM

Next Job

Willing to travel the same distance or greater Yes
than you traveled to your last job?

Willing to accept the same pay as Yes
previously earned on your last job?

Pay Willing Accept:

Willing to work the same hours/shift/days Yes
you worked on your last job?

Work Counties

Greenville

County FIPS: 45

Spartanburg

County FIPS: 83

Last grade completed: Two Years of College or Vocational School

Current School Information

Name of school: None

School location:

When did you start school:

School Schedule

Are you willing to quit or change your school schedule to be No
available for hours that are customary for your last occupation:

Transportation Methods

* Automobile

Benefit Payment Method

Benefit payment type: Debit Card

Bank name:

Account type:

Account number:

Routing number:

Debit card agreement accepted: Yes

Direct deposit agreement accepted: No

Confirmation

You must actively search for suitable work each week that you file a weekly certification for unemployment insurance benefits. Suitable work includes any trade, occupation, or business in which you are qualified based on your training or experience, and which pays at least 90% of your previous salary during your first eight paid weeks of unemployment and 75% of your previous salary after eight paid weeks of unemployment. DEW may audit your claim at any point by requesting verifiable documentation of your weekly search for suitable work. As a result, DEW strongly recommends that you keep a detailed record of all your job searches, including the date of the contact, the name and address of the organization, the position applied for, and the wage offered. You may use the Record of Work Seeking Activities (UCB-303) form to document your job contacts. You may be disqualified from future benefits and required to repay benefits you have already received if you fail to provide DEW with verifiable proof of your active search for suitable work when requested. Any job search you perform on South Carolina Works Online Services (SCWOS) using your registered username and password will be considered a verifiable job search. If you last worked for a temporary agency, you must make and document a weekly contact with that agency.

BY CLICKING HERE YOU ARE ACKNOWLEDGING THAT YOU [I Acknowledge](#)
UNDERSTAND THE WORK SEARCH REQUIREMENT AND
UNDERSTAND THAT YOU ARE RESPONSIBLE FOR COMPLYING
WITH ALL REQUIREMENTS FOR RECEIVING UNEMPLOYMENT
BENEFITS.

By checking this box and choosing "Submit My Claim", you hereby certify [I Acknowledge](#)
the information you are submitting to the South Carolina Department of
Employment and Workforce is true and accurate to the best of your
knowledge. Any individual found to have submitted fraudulent information
to obtain Unemployment Benefits may be subject to penalties of law – up to
and including FELONY prosecution.

UI-5
UCB104-S 20WK
Rev. 7/11

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 1477
COLUMBIA, S. C. 29202
OFFICIAL BUSINESS
UCB-104S

FORWARDING SERVICE REQUESTED

ROSS BUCHANAN

INFORMATION FOR CLAIMANT

This is a monetary determination of your claim for benefits based on wages paid during your Base Period. This determination shows your Base Period Employment Record. It lists your covered employer(s) that paid you wages, their account number, and the wages paid to you by quarter and year during the base period of your claim. The total amount of wages paid to you by quarter in the base period is shown beside Base Quarter Total. This determination covers only the monetary portion of your claim. Another determination will be issued that states if you are eligible to receive benefits. It will be based on the reason for separation from your most recent bona fide employer.

Under Potential Benefits Established, your Weekly Benefit Amount, Maximum Benefit Amount, and the date your Benefit Year Ends are shown.

BASE PERIOD: The first four of the last five completed calendar quarters prior to the effective date of your initial claim. If you earned wages in covered employment not shown on the face of this form, give the information to your claimstaker at the local workforce center.

If the monetary determination was invalid using base period wages, this determination may show wages and employment from an Alternate Base Period.

ALTERNATE BASE PERIOD: The first four most recently completed calendar quarters prior to the effective date of your initial claim. If you earned wages in covered employment not shown on the face of this form, give the information to your claimstaker at the workforce center.

HIGH QUARTER: The quarter in our Base Period during which wages paid to you for insured work were highest.

WEEKLY BENEFIT AMOUNT: The amount of benefits you may receive weekly, if unemployed and otherwise eligible, shall be one-half of the average weekly wage in the high quarter of your base period but shall not be less than \$42.00 nor greater than the maximum weekly benefit amount as determined by the Commission on or before June 30 of each year for benefit years on or after July 1 of such current calendar year, and prior to July 1 of the succeeding calendar year as provided in Section 41-35-40 of the Law.

MAXIMUM POTENTIAL BENEFITS: The greatest amount of compensation that you may receive during your benefit year.

BENEFIT YEAR: The one (1) year period following the effective date of your Initial Claim. To establish a Benefit Year in accordance with the provisions of the Law, you must meet the following wage requirements:

1. You were paid at least \$1,092.00 for insured work during the high quarter of your base period;
2. You were paid at least \$4,455.00 for insured work during your base period;
3. The total of your base period wages for insured work equaled or exceeded one and one-half times the total of your high quarter wages.

AVERAGE WEEKLY WAGE: Shall be determined by dividing the high quarter wages by 13 weeks.

REDETERMINATION RIGHTS: You have the right to request a correction if you do not agree that this determination is correct. Your request for redetermination may be made by letter or by personal visit to the office where your claim was filed and it should be made without delay. No change can be made on this determination after one year from the date of this notice.

BE SURE TO NOTIFY YOUR WORKFORCE CENTER ANYTIME YOUR MAILING ADDRESS CHANGES WHILE FILING A CLAIM FOR BENEFITS.

EXAMPLE OF COMPUTATION OF BENEFITS:

High Quarter Wages	\$1092.00
Base Period Wages	\$4455.00
Average Weekly Wage	\$1092.00 divided by 13 = \$ 84.00
Weekly Benefit Amount	\$4.00 divided by 2 = \$ 42.00

Maximum Potential Benefits:

Your maximum total benefit amount for this benefit year is the lesser of:

1. Twenty (20) times your Weekly Benefit Amount, or
2. One-third (1/3) of your total Base Period Wages as shown on this determination.
(1) $20 \times \$42.00 = \$840.00$ (2) $1/3$ of \$4455.00 = \$1485.00.

Maximum Benefits would be \$840.00 since that amount is less than \$1485.00.

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
INITIAL DETERMINATION OF STATUS AS AN INSURED WORKER

WORKFORCE CENTER 900

EFFECTIVE DATE 02/05/17

DATE FILED 02/10/17

DATE PREPARED 02/10/17

0

ROSS

BUCHANAN

***BENEFITS YOU MAY BE ELIGIBLE FOR:**

MILITARY ASSIGNMENTS

WEEKLY BENEFIT AMOUNT	326.00
-----------------------	--------

MAXIMUM TOTAL BENEFITS	6520.00
------------------------	---------

BENEFIT YEAR ENDS 02/04/18

* This statement establishes that you have the necessary wages to qualify for unemployment insurance. However, to receive benefits your job separation must also be considered. If you qualify, this is the maximum you may be entitled to receive.

SEE BACK FOR CLAIMANT INFORMATION

EMPLOYMENT RECORD			STANDARD BASE PERIOD QUARTERLY EARNINGS							
EMPLOYER	ACCOUNT NO.		YEAR	*QTR.	YEAR	*QTR.	YEAR	*QTR.	YEAR	*QTR.
UPSTATE MACHINE AND			2015	04	2016	01	2016	02	2016	03
			11129.00	10195.00	10261.00	9592.00				
STANDARD BASE QUARTER TOTAL			11129.00		10195.00		10261.00		9592.00	

*QTR.

1.-JAN.,FEB.,MAR. 3.-JULY,AUG.,SEPT.

2.-APR.,MAY,JUNE 4.-OCT.,NOV.,DEC.

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

NAME: ROSS BUCHANAN		SSN: [REDACTED]	BYE: 02/04/18															
CLAIMSTAKER ID:	WFC #: 900	FILED: 02/10/17	EFF DATE: 02/05/17															
MAILING ADDRESS: [REDACTED]																		
CITY: [REDACTED]		STATE: [REDACTED]	ZIP: [REDACTED]															
OTHER NAME: ROSS BUCHANAN																		
<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td>☒ 1-UI</td><td>☐ 4-UI/UCFE/UCX</td><td>☐ 7-UCX</td><td>☒ NEW</td><td>☐ TRANSITIONAL</td></tr><tr><td>☐ 2-UI/UCFE</td><td>☐ 5-UCFE</td><td>☐ 8-CW</td><td>☐ ADDITIONAL</td><td>☐ R-ADD</td></tr><tr><td>☐ 3-UI/UCX</td><td>☐ 6-UCFE/UCX</td><td>☐ OTHER</td><td>☐ CONTINUED</td><td></td></tr></table>				☒ 1-UI	☐ 4-UI/UCFE/UCX	☐ 7-UCX	☒ NEW	☐ TRANSITIONAL	☐ 2-UI/UCFE	☐ 5-UCFE	☐ 8-CW	☐ ADDITIONAL	☐ R-ADD	☐ 3-UI/UCX	☐ 6-UCFE/UCX	☐ OTHER	☐ CONTINUED	
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☐ 3-UI/UCX	☐ 6-UCFE/UCX	☐ OTHER	☐ CONTINUED															
BONA FIDE EMPLOYER NAME & PAYROLL ADDRESS INFORMATION:			DATES OF EMPLOYMENT:															
NAME: UPSTATE MACHINE AND MANUFACTURING LLC																		
STREET: 485 WALNUT HILL RD																		
CITY: CAMPOBELLO ST: SC ZIP: 29322			FROM: TO:															
			06/15/15 02/08/17															
			EMP. ACCT. # [REDACTED]															
BONA FIDE EMPLOYER LOCAL ADDRESS INFORMATION:																		
STREET:																		
CITY: CAMPOBELLO ST: SC ZIP: PHONE #: (864) 472-9091																		
SEPARATION REASON: ☐ LOW ☐ VQ ☒ DISCHARGE ☐ STILL WORKING																		
ISSUE CODES: 01																		
LIABLE EMPLOYER INFORMATION:			DATES OF EMPLOYMENT:															
NAME: UPSTATE MACHINE AND MANUFACTUR EMP. ACCT # [REDACTED]																		
JOB LOCATION (CITY/STATE): CAMPOBELLO, SC			FROM: TO:															
			06/15/15 02/08/17															
SEPARATION REASON: ☐ LOW ☐ VQ ☐ DISCHARGE ☐ STILL WORKING																		
NARRATIVE REASON FOR SEPARATION FROM LIABLE EMPLOYER:																		

RECEIVED

FEB 17 2017

DEPT. OF UI



B7
Timely ☒ / Not Timely
Issue Code: 01
BYE If Not for 0 Claim: 60164/19
Converted: Yes ☒ / No
HOLLANDS UI HUB

South Carolina Department of Employment and Workforce
Unemployment Insurance Benefits
Request for Information from the Employer

mt7

Claimant's Name: Ross Buchanan

SS#: [REDACTED]

Name Worked Under: _____

Date Mailed: 02/13/2017

Employer's Account #: [REDACTED]

Return within 10 days
of the above date to:

SCDEW
SC INTERSTATE UNIT, 1650 GADSDEN ST
P O BOX 1477
COLUMBIA, SC 29202

Employer's Name & Address: _____

Fax Number: 803-737-0539

UPSTATE MACHINE AND MANUFACTURING L
485 WALNUT HILL RD
CAMPOBELLO, SC 29322

This person has filed a claim for Unemployment Insurance Benefits and named you as a previous employer. Please select the reason this person no longer works for you and answer the questions that follow so that a determination can be made on eligibility for benefits. If you reply by letter, fax, or email, you must include all information requested, as well as the claimant's name and social security number. For instructions about responding by email, please visit the agency website at www.dew.sc.gov. YOU WILL RECEIVE A DETERMINATION ON THIS CLAIM ONLY IF IT IS FOUND THAT YOU ARE THE BONA FIDE AND/OR CHARGEABLE EMPLOYER.

☒ CLAIMANT'S Reason for Separation: DISCHARGED/FIRED/TERMINATED
Asked employer to discuss my pay and was told to pack up and get out.

SEPARATION INFORMATION: Please check the explanation below that applies and answer the questions that are related to that section.

☐ LACK OF WORK: (NO ADDITIONAL WRITTEN EXPLANATION IS NECESSARY.)

☒ DISCHARGE:

When was the claimant discharged? 2-8-17

What was the reason for discharge? This employee deleted programs from CNC machine without approval and this was done intentionally and was being used A black mail to ask for more money; therefore when employee approached me to ask for money to restore programs he was discharged immediately.

Does your company have a policy regarding this reason for discharge? ☒ Yes ☐ No

If Yes, what is your company policy? Employee hand book Rules # 2
Subotage or destruction of Company property



0605000410

Had the claimant been warned? ☐ Yes ☐ No

If Yes, provide dates, reasons for warnings, who gave the warnings, and how the warnings were communicated:
Please attach copies of any written warnings.

Date of the final incident: 2/8/17

What was the final incident that caused the discharge? (See page #1) and also employee
has missed many hours of work in 2017 used all PTO time
for the year missed one day of work per week this year on
top of PTO time used - week one worked 34.6 hrs / wk 2 - 0 hrs
used PTO / wk 3 worked 32 hrs / wk 4 worked 22.1 hrs / wk 5 worked 2.8 hrs

☐ VOLUNTARY QUIT/OTHER REASON:

Did the claimant quit in lieu of termination? ☐ Yes ☐ No

If Yes, please complete the discharge portion of this form.

If No, why did the claimant quit?

Explain the employer's understanding of the reason the claimant left:



0406000610

☐ **STILL WORKING:**

What were the hours agreed upon when the claimant was hired to work and why were the hours reduced?

n/a

Has there been a reduction in the claimant hours worked? ☐ Yes ☐ No

If Yes, what are the hours the claimant is currently working? n/a

Is the claimant accepting all work offered? ☐ Yes ☐ No

Information below required for all separations:

Dates of employment: From: 7-13-15 To: 2-8-17

During all terms of employment, have you paid this claimant as much as: \$ 2608.00 ☒ Yes ☐ No

If No, how much have you paid this claimant in all terms of employment? \$ _____

Are you paying, or WILL YOU PAY, this claimant a pension or retirement pay? ☐ Yes ☒ No

If Yes, what amount? \$ _____ PER _____

Did claimant contribute to pension plan? ☐ Yes ☒ No If Yes, what percent? _____%

Employer Name: Stan Cannon Upstate Machine

Account Number: [REDACTED]

Employer Signature: Stan Cannon

Title: President

Telephone Number: 864-472-9091
808-551-7685

Date: 02/16/17

**** FORM MUST BE SIGNED IN ORDER FOR INFORMATION TO BE CONSIDERED**

UI-5 NET101
SC DEPARTMENT OF EMPLOYMENT AND WORKFORCE
PO BOX 1477
COLUMBIA SC 29202-1477
OFFICIAL BUSINESS



0001 0000041 Single-Piece

UPSTATE MACHINE AND MANUFACTURING L
485 WALNUT HILL RD
CAMPOBELLO SC 29322-8400



0401000410

South Carolina Department of Employment and Workforce
Unemployment Insurance Benefits

ATTENTION: FAILURE TO RESPOND TIMELY OR ADEQUATELY TO DEW'S REQUEST FOR INFORMATION MAY NEGATIVELY IMPACT YOUR UNEMPLOYMENT TAXES.

Request for Information from the Employer Forms Instructions

A claim for unemployment insurance was filed by an individual who has identified you as a previous employer.

You are receiving this written request for separation information because you are not currently enrolled in the South Carolina Business One Stop (SCBOS) eNotify Program to respond to requests for separation information. You can create an SCBOS account at www.scbos.sc.gov. You may also respond using the State Information Data Exchange Service (SIDES) e-response. To register for SIDES, go to <https://www.research.net/s/SCDEW-SIDES-Registration>. This will allow you to respond electronically to future requests for separation information, rather than on paper, by mail or fax. You are strongly urged to take advantage of the ability to respond electronically. The advantages include savings of time and money, reduced staff time and paperwork, and a standardized format for all information. Complete and accurate separation information is critical in making sound decisions on claims for unemployment insurance, which helps to keep tax rates as low as possible.

Specific questionnaires regarding the most common reasons for separation are enclosed. They are:

- Lack of Work** - Work is not available (layoff, furlough, reduction in force, etc.).
- Discharge/Fired** - Employer initiated separation.
- Voluntary Quit** - Claimant initiated separation.
- Still Working** - Still employed but working reduced hours.
- General/Other** - Separated for a reason other than one listed above.

If this individual was not employed by you, please indicate on form.

Please complete and return the form within 10 calendar days to ensure that a timely and proper decision can be issued on this claim.

If you have questions or need assistance, please call 1-866-831-1724.



SC Department of Employment and Workforce FFATNET Report

BUCHANAN, ROSS

(828) 460-2563

Gender: M

cncreb@hotmail.com

Date of Birth: [REDACTED]

Claim Office: 900

Effective Date: 2/5/2017

Entered On: 2/10/2017

BYE: 2/4/2018

WBA: \$326.00

Interview Appointments:

Issues:

Employers:

Employer Name: UPSTATE
MACHINE AND
MANUFACTURI
NG LLC

Bona fide employer: Yes

Hire date: 6/15/2015

Termination date: 2/8/2017

Earned at least \$2,608.00: No

Owner or corporate officer of a business: No

Employer Acct Number: [REDACTED]

NAICS Code:

Claimant Separation Reason: Discharged/Terminated/Fired

Employer Separation Reason:

Total Wages: \$49,657.00

Employer Issues:

Kind Description

Discharge

Create Date

2/10/2017 12:00:00 AM

Last Modified Time

2/24/2017 3:04:58 PM

Attachment Info

Description

Created Time

Upload Date

Contact Attempts:

Contact Whom: Claimant

Contact Outcome: Left Voice Mail

Contact Type: Phone

Contact Time: 2/24/2017 10:47:46 AM

Action Data: Called Phone Number 8284602563

Note

Contact Whom: Claimant **Contact Outcome:** Contacted Successfully

Contact Type: Phone

Contact Time: 2/24/2017 3:09:07 PM

Action Data: Called Phone Number 8284602563

Note: (cont) Had he taken the time I could have shown him the programs. The only thing he told me was to pack my stuff and go. As far as me missing work, we had a conversation. We talked about missing work and the fact that my pay was cut. My pay was cut over \$10,000/year. I started making \$52,000/salary and ended making \$42,000/hourly employee.

Contact Whom: Claimant **Contact Outcome:** Contacted Successfully

Contact Type: Phone

Contact Time: 2/24/2017 3:33:24 PM

Action Data: Called Phone Number 8284602563

Note: (final) I even texted Ladonna/Office manager to let her know I wouldn't come in one day because I was doing a side job and that it was cleared with Stan because of the money issue.

Contact Whom: Employer **Contact Outcome:** Contacted Successfully

Contact Type: Phone

Contact Time: 2/24/2017 3:39:17 PM

Action Data: Called Phone Number 8644729091 and spoke with Stan Cannon

Note:

Claimant Rebuttals:

Employer Name

UPSTATE MACHINE AND
MANUFACTURING LLC

Agree With Employer

False

Statement

That was never stated or discussed on that day or any other day. This never came out of either one of our mouths. It is true there are programs that are routinely deleted. Stan/Owner has very old machines with very small memory spaces and it can't hold many programs but this was procedure. I have been doing this for over 30 years. They did have a device that was inoperable all the time. I am old school so as backup, any programs I have notes.

Employer Name
UPSTATE MACHINE AND
MANUFACTURING LLC

Agree With Employer
False

Statement
(cont2) 10/07/16 at 9am we had a meeting. I had an agenda that I discussed with him. I asked him to correct the issues. At the end of 01/2017 I sat down with Stan/owner again about those issues and he started talking about money issues. He started talking about me making side money on the side and that being the best option. We had a verbal agreement about me taking time off during the week to do side jobs.

Employer Rebuttals:

Employer Name	Agree With Claimant	Employer Statement	Paying Pension	Pension Amount	Pension Frequency	Employer Percentage
UPSTATE MACHINE AND MANUFACTURING LLC	False	He deleted the programs on purpose. I am actually going to have him prosecuted. He doesn't work well with people. I have already called the sheriff. Yes I told him he can work part time on side jobs but his separation was because of the programs being deleted and the sabotage.	False			

History Events:

FactFindingIssueCreated at 2/10/2017 12:34:40 AM by Ross Buchanan (PUBLIC\RossBuchanan): Created 'Discharge' Fact Finding Issue for employer 'UPSTATE MACHINE AND MANUFACTURING LLC' with status Submitted as part of submit Claim Application.

FactFindingCreated at 2/10/2017 12:34:40 AM by Ross Buchanan (PUBLIC\RossBuchanan): Fact Finding was created as part of submitting a Claim Application by Ross Buchanan(PUBLIC\RossBuchanan)

StatusChanged at 2/10/2017 7:44:53 AM by SCES\LMJones: Status changed from Initial Claim to Review by the trigger Claim Submit to ABPS.

CheckOut at 2/24/2017 10:46:20 AM by SCES\CPollard: Fact Finding checked out.

SuccessfulClaimantContact at 2/24/2017 10:47:57 AM by sces\cpollard: Claimant via Phone with outcome Left Voice Mail Notes:'new notetest'

ClaimantResponseDueSet at 2/24/2017 10:47:57 AM by sces\cpollard: Claimant Response Due Date Set. Claimant Contact Request Date was 02/24/2017 10:47 AM. Claimant Contact Request Due Date is 02/28/2017 10:47 AM

CheckIn at 2/24/2017 3:04:26 PM by sces\TGarrison: Fact Finding checked in by Supervisor on behalf of 'SCES\CPollard'.

CheckOut at 2/24/2017 3:04:31 PM by SCES\TGarrison: Fact Finding checked out.

FactFindingIssueStatusChange at 2/24/2017 3:04:58 PM by SCES\TGarrison: Fact Finding Issue " Status changed from 'Submitted' to 'Reviewed' by the trigger 'Review Complete'. Employer Name: UPSTATE MACHINE AND MANUFACTURING LLC

SuccessfulClaimantRebuttal at 2/24/2017 3:33:23 PM by sces\TGarrison: Claimant via Phone with outcome Contacted Successfully Notes:'new notetest': '(cont) Had he taken the t...'

ClaimantResponseDueCleared at 2/24/2017 3:33:23 PM by sces\TGarrison: Claimant Response Due Date Cleared Out. Claimant Contact Request Date was [Cleared Out]. Claimant Contact Request Due Date is [Cleared Out]

SuccessfulClaimantRebuttal at 2/24/2017 3:33:50 PM by sces\TGarrison: Claimant via Phone with outcome Contacted Successfully Notes:'new notetest': '(final) I even texted Lad...'

SuccessfulEmployerRebuttal at 2/24/2017 3:44:25 PM by sces\TGarrison: Employer via Phone with outcome Contacted Successfully People:'Stan Cannon' (Owner) Notes:'new notetest'

StatusChanged at 2/24/2017 4:02:48 PM by SCES\TGarrison: Status changed from Employer Response Received to Finalized by the trigger Finalize. Note:'All information was received and imaged. FF Finalized 02/24/17 at 4:02pm'

Notes:

Note Kind:	Finalize Fact Finding	Predefined Kind:
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Note

All information was received and imaged. FF Finalized 02/24/17 at 4:02pm



SC Department of Employment and Workforce Discharge Report

SSN: [REDACTED]
Claimant's name: Ross Buchanan
Date of birth: [REDACTED]
Local office: 900
Benefit year begin date: 2/5/2017
Benefit year end date: 2/4/2018
Claim type: New
Potentially Eligible: No
Employer name: UPSTATE MACHINE AND MANUFACTURING LLC
Employer Account #: [REDACTED]
Hire date: 6/15/2015
Termination date: 2/8/2017
Discharge reason: Discharged/Terminated/Fired
Earned at least \$2608: Yes
Bonafide: Yes

Discharge

Discharge Reason: Other

Date of final incident: 2/8/2017
Final incident that caused discharge:
Asked employer to discuss pay and was told to pack up and get out.
Discharge date: 2/8/2017
Discharged by: Stan Cannon
Title of person who discharged you: owner
Violated company policy: No
Final incident impacted employer's business: Yes
Explain how employer's business was impacted:
I imagine they are having difficulty meeting production quotas since I was a key employee there. I did ask if he was serious about telling me to get my tools and leave, and he repeated it sternly, so I complied. Later that day the office mgr texted me that my last check would be ready for me the next day at noon, so I assumed that his decision was indeed final.
Received prior warnings: No

2 UI-5
2 91339
2 REV. 1/11

2 SOUTH CAROLINA
2 DEPARTMENT OF EMPLOYMENT AND WORKFORCE
2 P.O. BOX 995
2 COLUMBIA, S.C. 29202
2 OFFICIAL BUSINESS
2 UCB-103

2 FORWARDING SERVICE REQUESTED

2

2
2
2
2

ROSS BUCHANAN

EXPLANATION OF DETERMINATION

South Carolina Code provides varying penalties for a claim deemed not meeting the requirements of the law. The appropriate Section of the law is explained below.

South Carolina Code has interpreted "BONA FIDE" employer to be the employer with whom the claimant last earned at least eight (8) times his weekly benefit amount.

SECTION 41-35-120 (1) provides that a claimant who leaves work without good cause connected with work shall be ineligible for benefits from the effective date of the claim and until the claimant works and earns at least (8) times the weekly benefit amount of the claim with one or more employers. Personal reasons do not constitute good cause for quitting. Examples of such personal reasons are as follows: Job dissatisfaction without material change in working conditions, lack of transportation, moving to another location, lack of child care, distance to and from work and domestic problems.

SECTION 41-35-120 (2) provides that a claimant will be disqualified for benefits if the Department finds that the discharge was for cause connected with work. The period of disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than twenty-six weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

Discharged for cause as used in this law means an act or course of conduct in violation of the employee's duties such as an intentional disregard of the employer's interest, destruction of company property, excessive absenteeism, violation of company rules, or any act of insubordination connected with the employment.

SECTION 41-35-120 (3) provides that any claimant who has failed (1) without good cause to either apply for available suitable work, when so directed by the Employment Service or the Department, or (2) to accept available suitable work when offered by the Employment Service or an employer, shall be disqualified until the claimant furnishes satisfactory evidence of having been reemployed and having earned wages of at least eight (8) times the weekly benefit amount.

SECTION 41-35-120 (6) provides that a claimant shall be disqualified if the Department finds that the claimant retired voluntarily from his most recent work. The disqualification shall begin on the effective date of the claim and continue until the claimant submits evidence of having been reemployed and having earned wages of at least eight (8) times the weekly benefit amount of the claim.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. In addition, a claimant must be physically "able to work" at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be "available for work" which means being ready, able and willing to accept suitable full-time work and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment will be paid for weeks for which the claimant is held to be unavailable. If the condition which caused the unavailability changes, the claimant may report to the local Workforce center to reopen his claim.

TO THE CLAIMANT: If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

TO THE EMPLOYER: South Carolina Code provides that benefits paid to a claimant shall be charged to the account of the account of the most recent "covered" employer by whom the claimant has been paid at least eight (8) times the weekly benefit amount. If it is found by the Department that the claimant was separated under disqualifying conditions, the employer will not be charged.

NOTE: Reimbursable employers are not subject to the above charge provisions, but are charged according to base period wages

1 UCB-103
REV. 7/10

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 995, COLUMBIA, S.C. 29202

1 ROSS BUCHANAN

DATE OF THIS NOTICE 02/27/17

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE	DISQUALIFICATION ENDS		
ROSS BUCHANAN					02/05/17	06/24/17		
WFC NO.	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS	
900	I	01	\$ 326.00	\$ 6520.00	\$ 6520.00	\$ 0.00	02/04/18	

1 DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 _____ You are eligible for benefits from the above effective date.

1 X You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR IMPROPER ACTIONS
1 ON THE JOB. YOUR ACTIONS WERE CONTRARY TO WHAT AN EMPLOYER HAS A RIGHT TO EXPECT. YOU WERE
1 DISCHARGED FOR MISCONDUCT CONNECTED WITH THE EMPLOYMENT UNDER THE SOUTH CAROLINA CODE SECTION
1 41-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20
1 TIMES YOUR WEEKLY BENEFIT AMOUNT.

1 SEPARATION OCCURRED FOR IMPROPER CONDUCT.

1 _____ LAST SEPARATION FROM NON-LIABLE EMPLOYER

UI CLAIMS ADJUDICATOR

1 MAILING DATE 02/28/2017

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY WORKFORCE CENTER, BY MAIL, ADDRESSED TO THE 'APPEAL TRIBUNAL,' P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL WORKFORCE CENTER OR THE APPEALS DEPARTMENT AT (803) 737-2520.

FAX

To:
Company:
Fax: 8037370287
Phone:

SCDEW

MAR 09 2017

Lower Authority Appeals

From:
Fax:
Phone:
E-mail:

NOTES:

Date and time of transmission: Thursday, March 9, 2017 11:31:40 AM
Number of pages including this cover sheet: 02

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P. O. Box 995, Columbia, South Carolina 29202

SCDEW

MAR 09 2017

Notice of Appeal to Appeal Tribunal

Lower Authority Appeals

Claimant's Name: ROSS BUCHANAN Social Security Number: [REDACTED]

Claimant's Address: [REDACTED]

Telephone: 828 685-7556

Employer's Name: UPSTATE MACHINE Telephone: 864-472-9091

Employer's Address: 485 WALNUT HILL RD INMAN SC 29349

Please refer to Determination by Claims Adjudicator to complete section below.

On 3/2/17 I received the determination mailed 2/28/17

(Date of receipt)

(Mailing date on Notice)

I appeal and hereby apply for a hearing because I believe it was issued in error for the following reasons:

PLEASE SEE ATTACHED LETTER.

I DID NOT VIOLATE STATUTE 41-35-120 (2)(A)

If appeal is untimely or you were absent from a prior hearing, state the reason: _____

I must continue to file my claim for each week of unemployment until I receive the Appeal Tribunal or Appellate Panel decision, until I return to work, or until my claim is exhausted. If I win the appeal, I know I can only be paid for those weeks that I have timely claimed.

REB.
(Claimant's Initials)

Does claimant need an interpreter? ☐ YES ☒ NO What language/dialect?

Claimant is ☐ Deaf ☐ Mute

(If it appears necessary to subpoena witnesses or documents, please complete Form APP-107 and attach it when you submit your appeal.)

SUBPOENA ☒ YES ☐ NO

Who is filing appeal: ☒ Claimant ☐ Employer

Signature: R.E. Buchanan

Title: N/A

Date: 3/9/17

To: The Appeal Tribunal

From: Ross Buchanan [REDACTED]

R.E. Buchanan

I refute the findings that I violated South Carolina Statute 41-35-120 (2) (A)

In fact I would like to see any documentation of that serious allegation, as I have certain proof that it is not true. If all you have is Stan Cannon's word, by the end of this process, I think it will be clear as to the status of his credibility.

Since South Carolina Statutes were quoted, I have a few of my own that should prove relevant to this case. What I will establish is a pattern of abusive tactics, and willful violation of state and Federal law by the employer.

First let's begin with South Carolina Statutes 41-10-30, 41-10-40, and 41-10-50

On Tuesday 9/8/2015 I arrived to work at 8 a.m. to find that I was about to be demoted, without cause. At noon I also was told by Stan verbally that I would receive a pay reduction. This is to be done, according to state statute 40-10-30 in writing, with a seven day notice. That never happened.

My pay was dropped from our original agreement from one thousand dollars a week to twenty dollars an hour. I only found that out when I received my next paycheck. Until then I didn't even know the amount of the reduction.

I have repeatedly objected to this personally to Stan, but as a person of perseverance, I continued to do excellent work for him, with the same responsibilities, but for less pay, in the hope that Stan would correct this error in time. That never happened either.

It may interest you that there are several pertinent precedents addressed in Mathis - V- Brown & Brown of S.C. Inc. (March 16, 2016)

In this case Mr. Mathis also continued to work for his employer after his pay had been decreased, until he was fired 7 years later, I believe.

He was awarded treble damages for back pay and attorneys fees in that civil case. There are a few differences in the details, but the interpretation of the Statute is made clear by the court.

It is also highly illegal to try to force an employee to work with out pay. Specifically this happened to me last year, when Stan tried to get me to come in on the weekends, on my own time, to rework \$3,000 worth of #3 spools. I have witnesses to this, such as Craig Travis. I also contacted Sheena Schwartz with the S.C. Dept. of Labor, Legal Dept. her number is 803-896-4506. I was able to resolve this without filing a formal complaint, by carefully walking though the minefield, known as Upstate Machine. That however, does not negate Stan Cannon's disregard for South Carolina State law.

It is also highly illegal to deny an employee the right to file a workers compensation claim for an injury that occurred at work, especially under the threat of firing if he does. This happened to a fellow

employee, who still works there. He is paying off over \$11,000 in medical bills as a result. Yes there are witnesses to that fact should you decide to take their statements.

There are a few other violations as well, that we can discuss at the hearing. Afterward the DOJ and ATF will be contacted with this info. I apologize, but there is no way to document everything and be brief as well.

I also refute the allegation made against me of "sabotage" and I can produce documentation and witness's to verify.

I have been working on CNC machinery since the early 1980's, and have been certified as a CNC machine technician on several brand of machines.

Before I even started working at Upstate Machine, I repaired 2 out of 3 machines that were inoperable the day I came in for an interview.

Right before my termination, I performed a major overhaul of a live tooling lathe, so it could be used for precision work. The spindle was misaligned .014" due to a crash that occurred years ago. When I completed the overhaul the machine held a .0003" tolerance and all of the factory specifications had been restored.

On other hand, due to carelessness and neglect by others, I have witnessed many malfunctions that could have been easily prevented, had the necessary instructions been followed. I have never intentionally harmed any equipment and I resent the accusation that I did.

As I stated previously, the list of wrong doing by this employer is quite long. He is an example of what the state of South Carolina should not expect nor tolerate.

If this were to go to a civil action or enter the public domain, it would no doubt be an embarrassment to the good employers in South Carolina, and tarnish the image that so many have tried to encourage in economic competitiveness.

I look forward to hearing your reply.

Sincerely,

Ross Buchanan



SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

P.O Box 995, Columbia, SC 29202

NOTICE OF APPEAL HEARING BY TELEPHONE

CLAIMANT'S NAME : ROSS BUCHANAN

SOCIAL SECURITY NO: [REDACTED]

ADDRESS : [REDACTED]

PHONE: (828) 460-2563

EMPLOYER'S NAME : UPSTATE MACHINE AND MANUFACTURING LLC

ADDRESS : 485 WALNUT HILL RD

PHONE: (864) 472-9091

CAMPOBELLO ,SC, 29322

An administrative hearing will be held by TELEPHONE CONFERENCE on: 3/22/2017 AT 11:15 AM, Eastern Standard Time, BEFORE: Leland M. Caulder, Jr., Administrative Hearing Officer, for the SC Department of Employment and Workforce. The parties will be called by the hearing officer at the telephone numbers shown on this form. **IF THE TELEPHONE NUMBER IS INCORRECT OR NO TELEPHONE NUMBER IS SHOWN, YOU MUST CALL THIS TOLL-FREE NUMBER (866) 269-5680 IMMEDIATELY TO INFORM US OF YOUR TELEPHONE NUMBER SO THAT YOU CAN PARTICIPATE IN THE HEARING.**

If you have not been called within 10 minutes after the scheduled time of the hearing, you must call (803) 737-2520. Either another hearing is still in progress, or we are unable to contact you. Failure to call or participate in the hearing may result in your interests being considered abandoned.

THE ISSUE(S) FOR THE HEARING ARE (those marked below):

☒ Voluntary Quit (for good cause)	☐ Voluntary Retirement	☐ Timeliness of Appeal
☒ Discharge (for disqualifying cause)	☐ Absence from Hearing	☐ Fraud & Overpayment
☐ Availability	☐ Overpayment	☐ Job Offer & Referral
☐ Eligibility	☐ Other	

SCHEDULE CONFLICTS: Hearing postponements are not ordinarily granted. However, if you have a justifiable conflict, notify the Department as soon as possible before your hearing. If you don't, a later request to reopen your hearing may be denied. Contact an appeals representative at (803) 737-2520, AT ONCE, if you cannot be present at the time scheduled and wish to request a postponement of the hearing.

PURPOSE OF THE HEARING: The hearing is a fact-finding process that uses a question-and-answer method. Each side may present testimony, witnesses, and documents relevant to its case. The hearing officer will conduct a fair hearing, determine what is relevant, and make sure the record is complete. After the hearing, the officer will prepare a written decision based on the evidence. That decision will be mailed to you.

WHAT HAPPENS AT A HEARING: This notice lists what issues the hearing will cover. The hearing is recorded and all proceedings are taken under oath. After explaining the law and procedures, the hearing officer will ask questions of each side and its witnesses in turn. After all testimony is taken from one side the same procedure is repeated for the other side. Wait your turn, as you may not interrupt while another person is testifying. The hearing officer will tell you when it's your turn to ask questions. Ask relevant questions that have not already been asked and answered. If you don't have any questions, let the hearing officer know.

EVIDENCE: Written evidence or documents such as letters, timecards, or doctors' statements may help your case. Photos, maps, or charts may also help explain what happened. Be ready to tell who prepared the evidence and how it helps your case. Send legible copies of the documents to the hearing officer and the other side before the hearing. Do this even if you believe the

Department or the other side already has them. **EVIDENCE MUST BE SUBMITTED TO THE APPEAL TRIBUNAL AND PROVIDED TO THE OPPOSING PARTY AT LEAST 24 HOURS PRIOR TO THE HEARING.** If you don't, the documents may not be considered as evidence. Include only evidence that relates directly to issues listed on the hearing notice.

Any evidence that you want to be considered in this hearing must be sent immediately to the Appeal Tribunal at the address shown on the top of this notice, or faxed to our number (803) 737-0287, or uploaded through the MyBenefits Portal for claimants or the South Carolina Business One-Stop (SCBOS) for employers.

WITNESSES: You may present witnesses to support your case. Choose witnesses who actually saw or heard what happened. Notify them of the date and time of the hearing and arrange for them to be available at that time. When the hearing begins, give the hearing officer the telephone number where each witness can be reached for the hearing.

DO I NEED A LAWYER? The unemployment appeal process is designed for claimants and employers who don't have attorneys. However, an attorney may represent you at your own expense. If you do choose to retain a lawyer, fees charged to represent claimants are limited to the greater of \$200 or a claimant's maximum weekly benefit amount for each proceeding.

SUBPOENAS: A subpoena is a legal document issued by the Department that orders an essential witness to testify or produce certain documents for the hearing. You may apply for a subpoena of witnesses and/or documents by downloading a form APP-107 under the Appeal Hearings heading at www.dew.sc.gov/appeals.asp. The form must be completed,

Date Mailed: 3/13/2017

signed and sent to the Appeal Tribunal. It may be sent by mail to "Appeal Tribunal, P.O. Box 995, Columbia, SC, 29202;" by fax to (803) 737-0287, or through the *MyBenefits Portal* for claimants or SCBOS for employers. ***SUBPOENA APPLICATIONS MUST BE RECEIVED SIX (6) BUSINESS DAYS PRIOR TO THE HEARING DATE OR THE REQUEST MAY NOT BE CONSIDERED.***

INTERPRETERS: The Appeal Tribunal will provide qualified language interpreter or interpreter for the deaf when requested. If you or any of your witnesses need an interpreter and you have not previously requested one, contact the Tribunal immediately.

WITHDRAWING AN APPEAL: Only the party who filed the appeal may withdraw it. If you wish to withdraw your appeal, please contact an appeals representative at (803) 737-2520 or mail your notice of withdrawal to the Tribunal at P.O. Box 995, Columbia, SC 29202.

TIME ZONES: If you call from a time zone other than Eastern Standard Time, be sure to properly calculate the time difference.

OVERPAYMENT OF BENEFITS: An adverse decision may result in an overpayment of benefits. In the event you are overpaid benefits, you will be required to repay those benefits to the Department.

DECISION: The Appeal Tribunal's written decision will resolve each issue, but it may not review in detail all testimony or documents given at the hearing. If you disagree with the decision, you may file a further appeal. The decision will explain how to file an appeal.

FILING FOR BENEFITS DURING APPEAL: A CLAIMANT MUST CONTINUE TO FILE WEEKLY CLAIMS FOR BENEFITS DURING THE APPEAL PROCESS, IF STILL UNEMPLOYED. Claim Weeks that are not timely filed cannot be paid, even if the claimant wins the appeal and is later held eligible. **CONTACT THE DEPARTMENT AT ONCE AT (866) 831-1724 if there are any problems or questions when filing weekly claims.**

THIS NOTICE SUPERSEDES ANY PREVIOUS HEARING NOTICE YOU MAY HAVE RECEIVED. IF THE DATE ON THIS NOTICE IS LATER THAN THE DATE ON ANY OTHER NOTICE, YOU SHOULD ASSUME THAT THE PREVIOUS HEARING HAS BEEN POSTPONED AND FOLLOW THE INSTRUCTIONS ON THIS NOTICE.

Selected Sections of the South Carolina Unemployment Law

VOLUNTARY QUIT: Section 41-35-120(1) provides that a claimant found to have left work voluntarily without good cause is indefinitely disqualified from receiving benefits until s/he returns to work and earn at least eight (8) times the weekly benefit amount. Good cause is a reason that is connected to employment and would justify a reasonable person leaving employment.

DISCHARGE FOR MISCONDUCT: Section 41-35-120(2) (a) provides that a claimant found to have been discharged for misconduct is disqualified for twenty (20) weeks.

"Misconduct" includes conduct showing willful disregard of an employer's interests, such as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee. No finding of misconduct may be made for discharge resulting from an extreme hardship, emergency, sickness, or other extraordinary circumstance.

DISCHARGE FOR CAUSE: Section 41-35-120(2)(b) provides that a claimant found to have been discharged for cause (i.e., fault), other than misconduct, is partially disqualified from benefits from five (5) to nineteen (19) weeks, according to the seriousness of the cause for discharge.

GROSS MISCONDUCT: Section 41-35-120(4) provides if a claimant is discharged for gross misconduct claimant is indefinitely disqualified from receiving benefits until s/he returns to work and earn at least eight (8) times the weekly benefit amount.

UNEMPLOYMENT DUE TO DOMESTIC ABUSE OR COMPELLING FAMILY CIRCUMSTANCES: Section 41-35-125 provides that a claimant may be found to be eligible for unemployment benefits if the separation from employment is attributable to domestic abuse or other compelling family circumstances. Compelling family

circumstances may involve illness or disability of the claimant or an immediate family member and a required relocation for the claimant's spouse. The burden is on the claimant to show these circumstances exist. Where required by statute, the claimant must produce documentary evidence supporting the claim.

AVAILABILITY: Section 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations and the claimant has registered and maintained contact with the Department as required.

Additionally, a claimant must be physically "able to work" at his/her usual occupation which prior training and experience shows him to be qualified. Also, a claimant must be "available for work," which means being ready, able and willing to accept suitable work, and that personal circumstances would not prevent him/her from accepting such work.

Unemployment benefits will not be paid for weeks in which the claimant is held to be unavailable. If the conditions which cause the unavailability change, the claimant may contact the Department to reopen his claim. The burden is on the claimant to show availability for work and reasonable effort to obtain work.

JOB OFFER AND REFERRAL: Section 41-35-120(5) provides that any claimant who has failed (1) without good cause to either apply for available suitable work, when so directed by the Department, or (2) to accept available suitable work when offered by the Department or an employer, shall be ineligible until the claimant furnishes satisfactory evidence of having been reemployed and having earned at least eight (8) times the weekly benefit amount. The burden is on the claimant to show availability for work and reasonable effort to obtain work. See S.C. Code Ann. Regs. 47-23.

ROSS BUCHANAN

GREENVILLE SC 296

9 March
TD



031

SCDEW

MAR 13 2017

Lower Authority Appeals

APPEAL TRIBUNAL
P.O. Box 995 COLUMBIA SC
29202

29202-099595



APP. 107NET
Rev. 7/13
Cat. 05141

1702972

SCDEW

Appeal File No.

MAR 13 2017

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina

Lower Authority Appeals

APPLICATION FOR ISSUANCE OF WITNESS SUBPOENA

Claimant's Name ROSS BUCHANAN SSN [REDACTED]

Address [REDACTED]

Employer's Name UPSTATE MACHINE

Address 485 WALNUT HILL RD INMAN SC 29349

I request for the following to be duly summoned to appear and testify under oath and Certify as necessary in the proper presentation of my case. Please limit to three, if possible. Subpoenas can only be issued to an S.C. address. Requests for documents also require a person's name to whom the request will be sent.

1. Name/Documents CRAIG TRAVIS Address [REDACTED]

Telephone No. 864-472-9091

Position title, if any, and what the witness knows about the situation WITNESS TO VIOLATION OF LAW

2. Name/Documents CHAD TREADWAY Address [REDACTED]

Telephone No. 864-472-9091

Position title, if any, and what the witness knows about the situation WITNESS TO VIOLATION OF LAW

3. Name/Documents _____ Address _____

Telephone No. _____

Position title, if any, and what the witness knows about the situation _____

Application completed by: ☒ Claimant ☐ Employer

Signature: R.A. Buchanan

Title UNEMPLOYED Date 3/9/17

Please submit document by fax to 803.737.0287 or by mail to "Appeal Tribunal, P.O. Box 995, Columbia, SC 29202."

SUBPOENA

STATE OF SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

TO: CRAIG TRAVIS

Date: 3/20/2017

Telephone: 864-472-9091

BY VIRTUE OF THE AUTHORITY vested in the South Carolina Department of Employment and Workforce, pursuant to S.C. Code Ann. §41-29-190, the Department is issuing this subpoena to compel the production of books, papers, correspondence, memoranda and other records considered necessary for the administration of Chapters 27 through 41 of Title 41, as described below:

☒ YOU ARE HEREBY COMMANDED to appear at the place, date, and time specified below, to give evidence of what you know regarding any and all relevant matters and providing all other information as described below. *Telephone conference call will include all applicable parties. If no number is listed or the number above is incorrect, you must call 1-866-269-5680 immediately to inform us of a correct number.*

☐ YOU ARE HEREBY COMMANDED to produce and to permit inspection and copying of the following document(s) or object(s) in your possession, custody or control at the place, date and time specified below (list documents and/or objects)

DOCUMENT DESCRIPTION:

HEARING HELD VIA TELECONFERENCE:

Date: 3/22/2017

(Telephone)

Time: 11:15 AM (Eastern Standard Time)

Claimant: ROSS BUCHANAN

Employer: UPSTATE MACHINE
AND MANUFACTURING LLC



In testimony whereof I have hereunto affixed my signature and the seal of the South Carolina Department of Employment & Workforce

DULY AUTHORIZED
REPRESENTATIVE

M.R. Thomas
UI Supervisor

FAILURE TO APPEAR constitutes contempt of court. **FURTHERMORE**, a person who, without just cause, fails or refuses to attend and testify; to answer a lawful inquiry; or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do this in accordance with a subpoena of the department or a duly authorized representative, must be punished by a fine of not less than twenty nor more than two hundred dollars or by imprisonment for not more than thirty days. Each failure to obey a subpoena constitutes a separate offense. S.C. Code Ann. § 41-29-210.

UCB-135A 12/14

Date Mailed: 3/20/2017

SUBPOENA

STATE OF SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

TO: CHAD TREADWAY

Date: 3/20/2017

Telephone: 864-472-9091

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(Telephone)

Time: 11:15 AM (Eastern Standard Time)

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Employer: UPSTATE MACHINE
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In testimony whereof I have hereunto affixed my signature and the seal of the South Carolina Department of Employment & Workforce

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M.R. Thomas

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UCB-135A 12/14

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT & WORKFORCE

Columbia, South Carolina

Transcript of Testimony
Before

Lee Caulder, Administrative Hearing Officer

Ross Buchanan)

CLAIMANT

[REDACTED])
[REDACTED])

Claimant SSN: [REDACTED])

Upstate Machine and Manufacturing LLC))
485 Walnut Hill Road)
Campobello, South Carolina 29322)

LIABLE EMPLOYER

PLACE OF HEARING:

SC Department of Employment & Workforce
Central Office Annex
631 Hampton Street
Columbia, SC 29201

DATE OF HEARING:

March 22, 2017

APPEARANCES:

For Claimant:

Ross Buchanan

For Employer:

Stan Cannon

TESTIFYING WITNESSES

CLAIMANT WITNESSES:

Ross Buchanan
Craig Travis, Engineering Production Management
Chad Treadway, Shipping Manager

EMPLOYER WITNESSES:

Stan Cannon, Owner

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STAN CANNON

Testimony of Employer Witness 9

ROSS BUCHANAN

Testimony of Claimant 21

CRAIG TRAVIS

Testimony of Claimant Witness 30

CHAD TREADWAY

Testimony of Claimant Witness 34

EXHIBITS ENTERED

<u>Exhibit</u>	<u>Description</u>	<u>Page</u>
Agency Exhibit 1	Adjudication Documentation	9
Claimant Exhibit 1	Letter from Claimant.....	29

Before Lee Caulder, Administrative Hearing Officer

HEARING OFFICER'S PREAMBLE

ALL WITNESSES SWORN

[Recording started]

HEARING OFFICER: We are on record with Appeal Number 1702972 in the case of the claimant Ross Buchanan and the employer Upstate Machine and Manufacturing, LLC. This hearing is being recorded. The claimant appealed the determination mailed February 28, 2017 whereby the claimant was held disqualified for 20 weeks effective February 5, 2017.

The issues in this hearing are whether or not the claimant was discharged for misconduct, discharged with or without cause, or voluntarily quit with or without good cause within the meaning of the law.

This hearing is being conducted on March 22, 2017 by telephone before Lee Caulder, Administrative Hearing Officer with the South Carolina Department of Employment and Workforce. The claimant, Ross Buchanan, is present with two subpoenaed witnesses: Mr. Chad Treadway and Mr. Craig Travis. The employer, Upstate Machine and Manufacturing, LLC is present represented by one witness: Mr. Stan Cannon, the owner.

All testimony must be taken under oath or affirmation. At this time I'd like to place all of you under oath, so please give me your attention. Do you solemnly swear or affirm the testimony you're about to give to be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Cannon?

1 STAN CANNON: Yes.

2 HEARING OFFICER: And Mr. Travis?

3 CRAIG TRAVIS: Yes.

4 HEARING OFFICER: And Mr. Treadway?

5 CHAD TREADWAY: Yes.

6 HEARING OFFICER: And Mr. Buchanan?

7 ROSS BUCHANAN: Yes.

8 HEARING OFFICER: Thank you. Let the record reflect that witnesses have been
9 duly sworn in.

10 Mr. Buchanan, are there any other witnesses you wish to have
11 present?

12 ROSS BUCHANAN: No, I don't believe so.

13 HEARING OFFICER: Mr. Cannon, are there any other witnesses for the employer?

14 STAN CANNON: No, sir.

15 HEARING OFFICER: I'm initially going to ask you all some questions and give you
16 the opportunity to answer those questions. At the end of my
17 questions you'll also be given the opportunity to present any
18 further testimony that you feel is relevant and wish to have
19 considered on these issues.

20 At the end of your testimony, Mr. Buchanan, you'll have an
21 opportunity to ask questions of your own witness to bring out
22 any other relevant points or clarifications that I did not. You
23 will also be given the opportunity to ask questions of Mr.
24 Cannon based on the testimony that he has provided.
25 Likewise, Mr. Cannon, you'll be given the opportunity to ask
26 questions of the claimant and his witnesses based on the
27 testimony that they have provided.

1 If either party has any documents or exhibits that you wish to
2 have considered, please present those at the time you talk
3 about them in your testimony, and those documents should've
4 already been mailed to my attention and to the other party.

5 You will be notified of a decision and it will be in writing,
6 mailed to your address of record just as soon as possible. Mr.
7 Buchanan, we have your address as [REDACTED]
8 [REDACTED] excuse me,
9 [REDACTED]. Is that correct?

10 ROSS BUCHANAN: Yes.

11 HEARING OFFICER: And for the employer's address we have it as 485 Walnut Hill
12 Road, Campobello, South Carolina, 29322. Mr. Cannon, is
13 that correct?

14 STAN CANNON: Yes, sir.

15 HEARING OFFICER: Since this initial determination was ruled as a discharge we
16 will begin with the employer's testimony.

17 Do you have any questions concerning the issues or the
18 procedures before we continue? Mr. Cannon, do you have any
19 questions?

20 STAN CANNON: No, sir.

21 HEARING OFFICER: Mr. Buchanan, do you have any questions?

22 ROSS BUCHANAN: I had one question and I'm sure you can clarify it for me.
23 When I was reading in the statutes on the conduct of this
24 hearing I was-- I cannot remember exactly the way that it was
25 worded, but was there something in the statute saying that the
26 evidence presented in here would or would not be admissible
27 in a court?

28 HEARING OFFICER: I'm not sure I understand. You will present evidence to this
29 tribunal and we will rule on whether or not it will be used as

1 part of the record in this hearing. Whether or not it's going to
2 be considered in another court, I have no idea.

3 ROSS BUCHANAN: Okay. Well, I-- Okay, you answered my question. I'm not
4 sure. I just thought I had seen something in the statutes about
5 whether there was some sort of privacy or immunity or
6 whether or not it was or was not a matter of public record
7 since everyone's under oath. That was one of the questions
8 that I had.

9 HEARING OFFICER: There is a methodology by which interested parties can get
10 transcripts of this hearing.

11 ROSS BUCHANAN: Oh, okay. I think that answers my question then.

12 HEARING OFFICER: Okay.

13 ROSS BUCHANAN: Thank you.

14 HEARING OFFICER: All right. Any other questions?

15 ROSS BUCHANAN: No, sir.

16 HEARING OFFICER: All right. Mr. Buchanan, I have in front of me a one-page
17 South Carolina Claims Adjudicator's Determination that was
18 mailed to you on February 28, 2017 holding you disqualified
19 for 20 weeks effective February 5, 2017. Is this the document
20 you are appealing at this time?

21 ROSS BUCHANAN: Yes.

22 HEARING OFFICER: Is this the only determination that you are appealing right
23 now?

24 ROSS BUCHANAN: Yes.

25 HEARING OFFICER: Do you have any objections with me entering it into the
26 record to show that that is what we're going to talk about?

27 ROSS BUCHANAN: No objections.

28 HEARING OFFICER: Mr. Cannon, do you have any objections?

1 STAN CANNON: No, sir.

2 HEARING OFFICER: I'm also required by law to enter into the record the
3 documents the Agency used to make this determination.
4 These documents consist of the first three pages of the initial
5 claims application, a one-page fact-finding statement
6 provided by the claimant, four pages of response from the
7 employer on a form NET-101 from a request for information
8 from the employer, and three pages of a fact-finding
9 attachment that provided the opportunity for both the
10 claimant and the employer to provide additional information
11 or rebuttal statements.

12 Mr. Cannon, do you have any objections with me entering
13 those documents?

14 STAN CANNON: No, sir.

15 HEARING OFFICER: Mr. Buchanan-- I'm sorry. There were four pages of that fact-
16 finding attachment.

17 Mr. Buchanan, do you have any objections?

18 ROSS BUCHANAN: I have no objections. However, I can honestly say I've tried to
19 view those documents online and I don't-- I couldn't view
20 them. It said there was a database overload on your website.

21 HEARING OFFICER: All right.

22 ROSS BUCHANAN: Or too many characters or something of that effect that it just
23 gave a data error. So I don't have any objections to you
24 entering them. I can just honestly say I don't know what the
25 employer's statement says.

26 HEARING OFFICER: We can go over that in the hearing.

27 ROSS BUCHANAN: Okay.

28 HEARING OFFICER: All right, these 13 pages then will be entered into the record
29 as Agency Exhibit Number 1.

AGENCY EXHIBIT NUMBER 1IS HEREBY ENTERED

1
2
3 HEARING OFFICER: As I stated, we're going to begin with the employer. So Mr.
4 Cannon, please state your name and spell your first and last
5 names.
6 STAN CANNON: Stan Cannon, S-T-A-N C-A-N-N-O-N.
7 HEARING OFFICER: And you're the owner?
8 STAN CANNON: Yes, sir.
9 HEARING OFFICER: Mr. Cannon, a review of our records shows that Mr.
10 Buchanan was employed on or about June 15, 2015 until
11 February 8, 2017. Are those dates approximately correct?
12 STAN CANNON: Yes, sir.
13 HEARING OFFICER: And the last position he held was a CNC Operator?
14 STAN CANNON: Yes, sir.
15 HEARING OFFICER: Were you his direct supervisor?
16 STAN CANNON: Yes, sir.
17 HEARING OFFICER: Can you tell me why he's no longer employed there?
18 STAN CANNON: Basically, he asked for two weeks off-- or a week off to help
19 his wife with a project he was working on at home. I said
20 sure. I guess he's got some kind of parental business or
21 something. He wanted a week to take care of some things at
22 home and do some work and I said that's no problem, take
23 your week and do what you need to do.
24 And during that time I went out to the machines-- because he
25 was not here-- to fill up some jobs and run some parts that
26 we'd run in the past and all the programs had been deleted out
27 of the machines. And of course I asked the other employees
28 what happened and they said he had done deleted them on--

1 He meant to delete them because the three machines that he
2 was responsible for, every program was wiped out.

3 HEARING OFFICER: Now--

4 STAN CANNON: I didn't think anything about it. He came to work that
5 morning after he'd been gone a week and I just told him-- I
6 said, you know, we need to get canisters running, which is a
7 job that was on one of his machines, and left it at that. Didn't
8 say anything about and then he approached me a few hours
9 later and said he can get 'em running for some more money
10 and he'd get the programs back in the machine. I just felt like
11 that was blackmail. I told him at that point to-- he could pack
12 his things and leave.

13 HEARING OFFICER: Okay. Well, you stated that when you went out to the
14 machines you found that all the programs on the machines--
15 on the three that he was responsible for, the programs were
16 deleted.

17 STAN CANNON: Correct, mm-hmm.

18 HEARING OFFICER: Well, why didn't you do something at that time?

19 STAN CANNON: He wasn't here. He was gone. He was out that week.

20 HEARING OFFICER: Right but, I mean, if it was so bad why didn't you just call
21 him and say: What happened to these programs? You got to
22 get in here and fix them?

23 STAN CANNON: I was going to wait until he came back. I mean, we had it
24 under control. I've got other operators.

25 HEARING OFFICER: Okay. So were they able to use those machines?

26 STAN CANNON: After we had to do-- redo all the programming that he'd
27 already been paid to do.

28 HEARING OFFICER: Okay. So you were able to use those machines, but someone
29 else had to reprogram them?

1 STAN CANNON: Correct, had to rewrite the program and put them back in the
2 machines.

3 HEARING OFFICER: Okay. And so when Mr. Buchanan came back to work you
4 asked him to run a specific job.

5 STAN CANNON: Mm-hmm.

6 HEARING OFFICER: Okay, either yes or no, please, sir.

7 STAN CANNON: Yes. Sorry, I forgot you said that. Yes.

8 HEARING OFFICER: All right. And he said a few hours later that he could go ahead
9 and do those but he would need a raise?

10 STAN CANNON: Correct, mm-hmm.

11 HEARING OFFICER: Well, why didn't you just get somebody else to do it?

12 STAN CANNON: Why didn't I get somebody else to do what? I don't
13 understand your question.

14 HEARING OFFICER: Well, I mean, if you got people to run the machines while he
15 was out and he said well, I need a raise to do this-- to do this
16 particular project, you just said okay, well, why don't you go
17 over here and work on this other thing and we'll get
18 somebody else to do that program?

19 STAN CANNON: Because that's not what he's paid to do. He's paid to set up the
20 machines, do what I ask him to do.

21 HEARING OFFICER: Okay. Was it a-- Was it usual to have programs deleted from
22 the machines?

23 STAN CANNON: No. I mean, they're my machines. He shouldn't do anything
24 to them unless he asks me to do it or Craig. He's in the office
25 now. I mean, unless he asks to do something he shouldn't
26 delete anything. He doesn't own anything here.

27 HEARING OFFICER: Well, yes, sir, I understand. Do you know whether or not any
28 of the programs that the machines that Mr. Buchanan were

1 working on-- if he had ever deleted any programs prior to
2 that?

3 STAN CANNON: I didn't know he'd even done that until he was out that week.
4 I had no clue.

5 HEARING OFFICER: Okay. Is it a-- Is it a policy or procedures that you have to
6 delete certain programs in order to get other programs in?

7 STAN CANNON: No. We basically run the same jobs on those machines and
8 have been for years.

9 HEARING OFFICER: Okay. Is there a policy or a rule or instructions that say that
10 before you do anything like that you need to get a
11 supervisor's permission?

12 STAN CANNON: Yeah, the machinist would do that. I mean, there's no reason--
13 there's no reason to delete a program. We've got enough
14 memory in the machines.

15 HEARING OFFICER: Okay, all right. All right. Well, but I mean is there a policy
16 that-- Does the company have a handbook, an employee
17 handbook?

18 STAN CANNON: Absolutely, mm-hmm.

19 HEARING OFFICER: Okay. And in that handbook does it-- does it talk about
20 anything having to do with altering equipment or anything
21 like that without permission?

22 STAN CANNON: There's a rule-- I don't know which rule number it is. I'd have
23 to get the-- You want me to get the handbook?

24 HEARING OFFICER: Well, just-- I'm just wondering. Yes, sir.

25 STAN CANNON: Sir?

26 HEARING OFFICER: Yes, sir.

27 STAN CANNON: Do you need me to get the handbook?

1 HEARING OFFICER: Well, I'm just wanting to know if it's in the handbook then
2 whether or not Mr. Buchanan was aware of that. I think in
3 your employer reply you said handbook rule number two,
4 sabotage or destruction of company property.

5 STAN CANNON: Yes, correct. And to me deleting programs without
6 permission is sabotage. That is correct. It is number two.
7 You're correct.

8 HEARING OFFICER: Okay. All right. And do you know-- Do you know whether or
9 not Mr.--

10 STAN CANNON: Rule number three is tampering with or moving or changing
11 without proper authorization.

12 HEARING OFFICER: Okay. And do you know whether or not he got authorization
13 to do that before he-- before he did it?

14 STAN CANNON: He did not from me. I know that.

15 HEARING OFFICER: Okay. All right. Have you ever had to discharge anyone else
16 for this same type of infraction?

17 STAN CANNON: Never had it done before and I've been doing this 40-some
18 years.

19 HEARING OFFICER: Okay. Had Mr. Buchanan ever received any sort of warnings
20 prior to this?

21 STAN CANNON: No. Like I said, I didn't have any clue he'd even done
22 anything and it wasn't anything I was going to-- I just asked
23 him to reset it up when he came back and that's when he
24 started asking for money. I just felt like he was blackmailing
25 me and I wasn't going to tolerate that.

26 HEARING OFFICER: Okay. Was there a-- Did you all have a discussion or was it
27 just that brief?

28 STAN CANNON: That brief.

1 HEARING OFFICER: Okay. All right, what-- When you told Mr. Buchanan to leave
2 what happened?

3 STAN CANNON: Nothing. I just basically told him to pack his things and get
4 out.

5 HEARING OFFICER: Okay. And did Mr.--

6 STAN CANNON: I told--

7 HEARING OFFICER: Did he--

8 STAN CANNON: I had Craig escort him out.

9 HEARING OFFICER: All right. Did he-- Did Mr. Buchanan say anything at that
10 time?

11 STAN CANNON: Nope.

12 HEARING OFFICER: Okay. I don't really have any further questions, Mr. Cannon.
13 Anything else you want to tell me?

14 STAN CANNON: No, sir.

15 HEARING OFFICER: Mr. Buchanan, do you have any questions you want to ask
16 Mr. Cannon based on his testimony?

17 ROSS BUCHANAN: Sure, yes.

18 HEARING OFFICER: Go ahead.

19 ROSS BUCHANAN: Okay, Mr. Cannon, you said that your machines have
20 adequate memory and no one has deleted programs before for
21 any other reason. Is that your statement and is that what
22 you're stating to be true?

23 STAN CANNON: Yes. No one's deleted programs unless we've discussed it,
24 correct.

25 ROSS BUCHANAN: And I guess-- Well, okay, this would only be Mr.-- to Mr.
26 Cannon. I have a subpoena witness, uh, Craig Travis.

27 HEARING OFFICER: We'll get to that.

1 ROSS BUCHANAN: But, again, back to just Mr. Cannon. You also stated that I
2 asked you for a raise when I came in that morning?

3 STAN CANNON: No, not that morning. When you came up in the office.

4 ROSS BUCHANAN: Okay. I believe that was still before noon but--

5 STAN CANNON: It was still morning.

6 ROSS BUCHANAN: You're saying that I asked you for a raise and that is your
7 sworn testimony?

8 STAN CANNON: Yeah, you said, "Let's talk about money", I think was the
9 exact quote, yes.

10 ROSS BUCHANAN: Was my exact quote, "We have some unresolved financial
11 issues that I would like to discuss with you?"

12 STAN CANNON: Don't remember that.

13 ROSS BUCHANAN: Okay. I guess another question would be-- You said that I
14 didn't say anything in response. Is that your sworn testimony?

15 STAN CANNON: Well, if you did, I didn't hear it.

16 ROSS BUCHANAN: If I did, you didn't hear it. Is that what you said?

17 STAN CANNON: Correct, mm-hmm.

18 ROSS BUCHANAN: Okay. So you didn't hear me say you're firing me for asking a
19 question?

20 STAN CANNON: Didn't hear that part, no.

21 ROSS BUCHANAN: Okay. And well, I believe-- I've already asked the other
22 question that I needed to ask, that you have no knowledge of
23 anybody deleting programs due to machine capabilities or as
24 a common expression used in the shop, I'm going to
25 cannibalize this program. In other words, I'm going to have to
26 take a program that I already have in use and change it
27 slightly to make another part-- a slightly different part

1 because we have no more machine capacity. You have no
2 knowledge of that ever happening?

3 STAN CANNON: Yeah, of course you can do that if it's a similar part. But I'm
4 talking about-- Not when you wipe out 20 to 30 programs.

5 ROSS BUCHANAN: Okay. Do you have any knowledge of battery backups in the
6 machines where they run strictly on the battery to power up
7 the machine when they are unplugged or disconnected from
8 the breakers?

9 STAN CANNON: Yeah, all machines have battery backup, correct?

10 ROSS BUCHANAN: Yes. And do you know the reason for the battery backup?

11 STAN CANNON: Yeah, so you don't lose your parameters.

12 ROSS BUCHANAN: Parameters and programs, correct?

13 STAN CANNON: Correct. The parameters--

14 ROSS BUCHANAN: Have you ever had a machine lose its programs on its own
15 there?

16 STAN CANNON: No, not to my knowledge.

17 ROSS BUCHANAN: Okay. And that would be including the Hass VF-1 that had
18 the screen replaced in it?

19 STAN CANNON: That one did because we had to replace the screen. That has
20 nothing to do with the battery.

21 ROSS BUCHANAN: As far as you know it didn't have anything to do with the
22 battery?

23 STAN CANNON: Correct.

24 ROSS BUCHANAN: I don't know that we ever determined the cause of that loss of
25 programs, correct?

26 STAN CANNON: Correct, did not figure that one out.

1 ROSS BUCHANAN: Do you also have another Haas-- I believe it's a VF-3 milling
2 machine-- that has had a recurring screen problem coming
3 across the bottom of the screen with lower case Gs?

4 STAN CANNON: What's that--

5 ROSS BUCHANAN: Do you have-- recall that machine?

6 STAN CANNON: [INAUDIBLE]

7 ROSS BUCHANAN: It's still in your possession now?

8 STAN CANNON: Yes. But what's that have to do with anything?

9 ROSS BUCHANAN: Well, do you know why-- Have I told you and, I believe,
10 Craig the reason why that machine has got those little Gs
11 coming across the bottom of the screen and did I warn you
12 what was going to eventually happen if it wasn't fixed?

13 STAN CANNON: That's not one of the three machines we're talking about.
14 That's not one of your machines.

15 ROSS BUCHANAN: I realize that. But do you know that-- Has that conversation
16 ever took place?

17 HEARING OFFICER: Well, wait a minute. Wait a minute. I would agree with Mr.
18 Cannon in this point. What is the relevance of this line of
19 questioning, Mr. Buchanan?

20 ROSS BUCHANAN: Okay, I can answer that.

21 HEARING OFFICER: Yeah, please do.

22 ROSS BUCHANAN: The relevance is that I have more than 20 years of experience
23 on CNCs starting when I was about 18, 19 years old and I
24 have actually been a certified machine technician--

25 HEARING OFFICER: What's--

26 ROSS BUCHANAN: --and I happen to know the answers to the questions that I'm
27 asking and that's the relevance of it. Just to enter into the
28 record, what these battery backups are, just like any other

1 electronic device that you own, like your phones or your
2 computers, if you have a power failure or if you have any
3 electrical problems in the machine, you have a limited
4 amount of battery backup to those programs and parameters
5 that will-- if it's not fixed in time, it will render your machine
6 useless. And there have-- The machines in this shop are older
7 machines. They are a little sensitive and they do need some
8 required maintenance, like any other machine, and if you're
9 not aware of and keep up with what's going on with them,
10 you could actually inadvertently lose a lot of programs or lose
11 your parameters if you're not aware of it and attentive of it.

12 HEARING OFFICER: Once again, I'm going to ask you. What is the relevance of
13 your questioning?

14 ROSS BUCHANAN: What's the relevant (sic) of my questioning?

15 HEARING OFFICER: Yes.

16 ROSS BUCHANAN: The relevance of my questioning is that what he's telling you
17 isn't true. That's the relevance of it. And you-- If you're not a
18 machine technician, I wouldn't even expect you to understand
19 that what he was telling you wasn't true but that I didn't want
20 that testimony to go unchallenged that just because you've
21 got a machine there that it's always going to retain its
22 programs if it's having electrical problems.

23 HEARING OFFICER: All right. So it sounds like-- Sir, hold on.

24 ROSS BUCHANAN: There are things you can do--

25 HEARING OFFICER: Hold on. So it sounds like--

26 ROSS BUCHANAN: Okay.

27 HEARING OFFICER: --you're making your defense on that your-- that those three
28 machines lost power and automatically deleted their own
29 programs. So I will--

30 ROSS BUCHANAN: No, I'm not.

1 HEARING OFFICER: --let you talk about that--
2 ROSS BUCHANAN: No.
3 HEARING OFFICER: I'm going to let you talk about that in your testimony. And
4 unless you want to ask a direct question about that to Mr.
5 Cannon then move on.
6 ROSS BUCHANAN: Okay. I kind of-- I think you're getting a little testy with me
7 when I'm just asking-- I just asked Mr. Cannon questions
8 because I was in the belief that he was giving wrong
9 information and wanted them clarified and I thought that was
10 my right to do under this-- under this hearing. If I'm mistaken
11 then I apologize.
12 HEARING OFFICER: You want to move on and ask questions?
13 ROSS BUCHANAN: I'm sorry. I didn't understand that.
14 HEARING OFFICER: I said do you want to go ahead and move on and ask
15 questions?
16 ROSS BUCHANAN: Yes, I do.
17 HEARING OFFICER: Then why don't I let-- Why don't I ask a specific question for
18 you? Mr. Buchanan-- Mr. Cannon, did either-- any of those
19 three machines lose power that caused the programs to be
20 deleted?
21 STAN CANNON: No, sir. We've got 14 CNC machines and only three that
22 were-- programs were removed from were the three he was
23 running.
24 HEARING OFFICER: Do each of the machines-- Do all the machines have a
25 universal battery backup?
26 STAN CANNON: Yes, sir, mm-hmm.
27 HEARING OFFICER: Are they regularly tested?
28 STAN CANNON: Well, we get a warning. I mean, like-- I mean, Craig can
29 probably explain this better than me. The [INAUDIBLE] just

1 recently. It gives you a warning before the battery goes
2 completely dead so we can get them replaced before it loses
3 anything. It gives you a warning on the screen. I'm not trying
4 to put you on the spot but Craig just replaced those on another
5 machine before anything happened. So it gives you a warning
6 ahead of time.

7 HEARING OFFICER: All right. So Mr. Buchanan, you want to--

8 ROSS BUCHANAN: Yes, sir.

9 HEARING OFFICER: Do you want to ask any follow-up questions to that?

10 ROSS BUCHANAN: Yes.

11 HEARING OFFICER: Go ahead.

12 ROSS BUCHANAN: In the statement that you made, Mr. Cannon, you stated that
13 the programs were gone. Did you ever ask me where they
14 are?

15 STAN CANNON: No. I just didn't say anything to you except to get the
16 machine-- get the canisters running.

17 ROSS BUCHANAN: Okay. Do you have a system in place to record those
18 programs should they need to be recorded out of the machine
19 in order to provide space for the memory?

20 STAN CANNON: Yes, mm-hmm.

21 ROSS BUCHANAN: Does that device work?

22 STAN CANNON: Yes, mm-hmm.

23 ROSS BUCHANAN: And is there more than one person who knows how to do
24 that?

25 STAN CANNON: Yes, there is.

26 ROSS BUCHANAN: What are the names of the people that know how to do that?

27 STAN CANNON: Joel and Jake.

- 1 ROSS BUCHANAN: Joel and Jake?
- 2 STAN CANNON: Mm-hmm, yes.
- 3 ROSS BUCHANAN: So Ross Buchanan isn't one of the people who has used that
4 device--
- 5 [Crosstalk @ 0:27:27]
- 6 STAN CANNON: You're asking me-- I thought you said other people. I'm sorry.
7 And yourself, yes.
- 8 ROSS BUCHANAN: So you're saying I know how to use that device and I've used
9 it successfully?
- 10 STAN CANNON: Yes.
- 11 ROSS BUCHANAN: Can you tell me when that day happened?
- 12 STAN CANNON: No. I don't know the last time you were on that computer, do
13 not..
- 14 ROSS BUCHANAN: Yes, that's correct because I never have been. Did I in fact
15 ever try to get you to put those programs on the central
16 computer where it would be stored, let's say, in the main
17 office in the main office computer? Did I ever try to get that
18 accomplished?
- 19 STAN CANNON: Not to my knowledge.
- 20 ROSS BUCHANAN: I see. I believe that's all the questions I have for Mr. Cannon.
- 21 HEARING OFFICER: Mr. Buchanan, state your name and spell your first and last
22 names.
- 23 ROSS BUCHANAN: Ross Buchanan, R-O-S-S B-U-C-H-A-N-A-N.
- 24 HEARING OFFICER: And would you agree the dates of your employment is June
25 15, 2015 until February 8, 2017?
- 26 ROSS BUCHANAN: Yes.
- 27 HEARING OFFICER: And the last position you held was a CNC operator?

1 ROSS BUCHANAN: Yes and no.

2 HEARING OFFICER: Okay. What-- Can you tell me why you're no longer
3 employed there?

4 ROSS BUCHANAN: I was told on February the 8th to pack my tools and get out.

5 HEARING OFFICER: Do you know why?

6 ROSS BUCHANAN: No.

7 HEARING OFFICER: Okay. As a-- As a CNC operator were you responsible for
8 three machines?

9 ROSS BUCHANAN: No. I was responsible for much more than three machines.

10 HEARING OFFICER: Okay. Did you delete programs from those three machines
11 that we've been talking about?

12 ROSS BUCHANAN: Yes, I did. It was not a power failure. It was not a failure of
13 battery backup.

14 HEARING OFFICER: Okay, okay. So why did you delete them?

15 ROSS BUCHANAN: For the reasons that I was trying to clarify before.

16 HEARING OFFICER: Well, why don't you tell me, please?

17 ROSS BUCHANAN: I am. For the reasons that I stated before, that these particular
18 machines-- One of them has had a battery backup already
19 replaced in it. They do not last forever. Two of the machines
20 are extremely old. One of them is so old that it can only hold,
21 I believe, a maximum of 12 programs and we run many more
22 jobs than that.

23 I also have been unable to use this particular device. The
24 brand name of it, I believe, is called GoBox. It's a very small
25 portable device to transfer storage of programs. The only
26 person that I've seen use it and run it successfully is Stan's
27 nephew Jake. The times that I have tried to use this particular
28 device the battery is always dead on it so you have to charge

1 it up to use it. So I have never been able to successfully
2 download or upload programs using that device.

3 And there is-- One of the three machines in reference here
4 that has been directly hotwired from the breaker box to the
5 machine itself bypassing the internal breaker on it and it's, I
6 guess, a \$300 to \$500 item that's never been replaced. I did
7 that myself in order to keep the machine running because it
8 would not function without power. However, all of the
9 machines have disconnects and if you leave a machine sit for
10 a long enough period of time, you will zap the energy out of
11 it.

12 One of the main factors that causes that is the amount of
13 programs that you have in it. If you only have one or two, it
14 won't take a lot of power. If you fill the machine slap full of
15 programs and leave it that way against the advice of the
16 technical manuals that come with the machine, you will
17 increase the risk of losing everything. So that being said, I
18 have an alternate plan that I've used since I was in my teens
19 and 20s and that's called a pencil and paper. Those programs
20 still exist. They were in a notebook written down the entire
21 time and could have been entered back into the machine at
22 any time had Stan Cannon simply asked me--

23 HEARING OFFICER: Did you tell anybody that?

24 ROSS BUCHANAN: --and allowed me a sentence or two of conversation before he
25 said pack your stuff and get out.

26 HEARING OFFICER: Did you tell anybody that's where all these programs were?

27 ROSS BUCHANAN: No. I was told to get my stuff and get out.

28 HEARING OFFICER: Prior to this.

29 ROSS BUCHANAN: I did not even have a chance to tell anybody anything. I
30 walked into his office and I said you know, we have an
31 unresolved financial situation here. I've been acting

1 production manager without the pay for over a year. I have
2 repeatedly asked about this and I just was simply bringing it
3 back up again as I had at least once a month since October;
4 the October 7th letter that I submitted for documentation here.
5 It's been an ongoing conversation between Stan and I for
6 about a year or more and it was at that time that he just turned
7 to me and said if that's the way you feel about it, get your
8 stuff and get out.

9 So no, there wasn't any opportunity for me to say or ask or do
10 anything unless I wanted to get a trespassing charge on me or
11 something like that. So I did-- complied with what he said. I
12 packed my stuff and I got out.

13 HEARING OFFICER: Okay. You stated earlier-- I think very early in your
14 testimony-- that it was not due to a power failure or battery
15 failure, that the programs were deleted, that you deleted the
16 programs. This was a week--

17 ROSS BUCHANAN: Yes.

18 HEARING OFFICER: And this was a week before you were-- I mean this was a time
19 before you were going to be out of work for a week. Is that
20 right?

21 ROSS BUCHANAN: No, that's not correct.

22 HEARING OFFICER: Okay.

23 ROSS BUCHANAN: Those programs were gone-- I don't know-- two or three
24 months before. I only had one or two programs in there for
25 the last three or four months to ensure that the batteries and
26 for other reasons that we were only running one or two jobs at
27 that time and because there is limited memory space in there.
28 This cannibalization that I was referring to, that had been--
29 that has been taking place for-- I don't know-- months and
30 months. This was not something that just happened a week
31 before I went on vacation.

1 HEARING OFFICER: So you'd been deleting programs on and off for as long as
2 you'd been there?

3 ROSS BUCHANAN: The entire time I've been there, yes.

4 HEARING OFFICER: Did anyone know that?

5 ROSS BUCHANAN: Yes.

6 HEARING OFFICER: Who?

7 ROSS BUCHANAN: Who?

8 HEARING OFFICER: Yeah.

9 ROSS BUCHANAN: Stan knew it. Craig knew it. Joel knew it. Jake knew it.
10 Everybody that worked around me knew it, yes.

11 HEARING OFFICER: Okay.

12 ROSS BUCHANAN: It was very common.

13 HEARING OFFICER: All right. Was there a policy that you were aware of or a
14 procedure that you needed to get permission to delete those
15 programs before you did?

16 ROSS BUCHANAN: Not at all. As I was hired to be a production manager and as
17 recently as, I believe, January the-- I want to say it was
18 January the 28th of this year I was told by the owner of the
19 company this is your shop, you run it.

20 HEARING OFFICER: Okay. So it was just coincidence that when you came back
21 and you were-- and Mr. Cannon asked you to run this
22 particular program, it was just coincidence that you came
23 back in and was speaking about this unresolved financial
24 issue?

25 ROSS BUCHANAN: I wouldn't call it coincidence. I would say it was just a
26 recurring thing that I did about every 30 days. So if you want
27 to-- I guess you could say yeah, it coincidentally found
28 about-- came about that same time if that's the wording that
29 someone wishes to use is coincidence, sure.

1 HEARING OFFICER: Okay.

2 ROSS BUCHANAN: It was not a plan deliberate then if that's what you mean.

3 HEARING OFFICER: Okay. And if Mr. Cannon had said we don't have any
4 unresolved issues, just hypothetically, would you have gone
5 back to work?

6 ROSS BUCHANAN: Sure. I mean, I would've added a sentence or two in reply but
7 yes. I just was in there to discuss the issue. I wasn't in there to
8 blackmail anybody and I sure wasn't looking to lose my job.

9 I would like to add one other thing about this particular
10 machine in question on that day, especially in the regards to
11 the allegation of sabotage and so forth. That particular
12 machine was being talked about being used in a production of
13 some very precision parts; upcoming and previously.
14 Unfortunately that machine was not aligned precisely to do
15 that. I'm going to get into some technical numbers here and I
16 hope I don't bore everybody but when I--

17 Like I said, I've been a machine technician. I have set these
18 machines up, installed them, and repaired them before in my
19 past for one of the largest Maytag dealers in the Southeastern
20 United States. The owner's name is John Grabinaw
21 [phonetic]. However, I went to-- I took down that machine
22 and realigned the spindle to within three ten thousandths of an
23 inch because it was out fourteen thousandths of an inch. In
24 other words, a magnitude of 42 times of accuracy. I did that
25 immediately prior to me going on vacation. That was during
26 the month of December of 2016.

27 And it was at that time that that machine was going to be
28 unhooked. I had to have the power off of it to work on it and
29 it was at that time that I had taken the programs down. I had
30 written them down, made sure that they were recorded so that
31 they wouldn't be lost to prosperity, and went ahead and
32 unplugged the machine so it was running strictly on battery

1 backup, and took all the covers off the machine, tore it
2 completely down, got the nuts loose, lined it all back up with
3 the precision equipment, and then got it all put back together.
4 And I had just accomplished that in January of 2017. That
5 was another particular point that probably should've been
6 noted.

7 HEARING OFFICER: Okay. All right.

8 ROSS BUCHANAN: I am not a saboteur. And I was just doing my job the way that
9 I know how to do it and the way that I've been paid to do it
10 and I do it well.

11 HEARING OFFICER: All right. I don't have any further questions for you. Anything
12 else you want to tell me?

13 ROSS BUCHANAN: Yes.

14 HEARING OFFICER: Go ahead.

15 ROSS BUCHANAN: Okay. Yes, I'm getting my notes. I just basically addressed
16 the accusation that's been made of being a blackmailer and I
17 refute that. There's also-- Let me see here.

18 Okay, I've already stated this but I'll restate this. I've got it
19 written down in my notes. I did not quit. I was fired. I did not
20 give any cause to be fired. All I did was simply ask the man a
21 question and in response to asking him-- asking him about
22 our unresolved financial situation, which we'd spoken of
23 many times, he turned around and fired me.

24 I've repaired and maintained all of the equipment in there. As
25 a matter of fact, I fixed two of his machines before I ever got
26 a paycheck from him and that was back in May of 2015. I
27 have increased the productivity there and I have warned him
28 about the impending machine and production problems in that
29 shop. Any time something comes up that's going to affect his
30 shop or to be a detriment to his production or his money
31 making ability I've always warned him about it.

1 On January the 26th-- that plus or minus a day to the best of
2 my recollection-- I had a meeting with Stan at approximately
3 5:00 p.m. and I got explicit permission to work my other jobs.
4 My side work was encouraged. And the reason for that was,
5 again, back to the issue of me making less money than what
6 we had agreed that I was to make when I first started there.

7 The unemployment commission has access to all of my
8 employment records. I was making more money at the shop
9 that I was at before than when I left Stan. You also can verify
10 that I made more money when I came to work for Stan.
11 Approximately four months later that entire paycheck
12 changed unilaterally. I did stay working for him but I never
13 agreed that it was right and proper but I did feel that if I get
14 loyal to him and continued working for him that he would
15 eventually agree that I did deserve the original amount of
16 money that he had promised me.

17 And as I had just said before, a day or so after that meeting on
18 January the 26th when he left for his Las Vegas trade show he
19 turned to me. One of the last things he said was whatever you
20 want to do, this is your shop, you run it. So that kind of
21 explains my answer when you asked me originally is your
22 position a CNC operator. I said yes and no. The reason I had
23 to answer it that way was because yes, that may be what my
24 official title was but I was sure running a lot more than just a
25 CNC operator.

26 Number three, my contract with Stan was changed without
27 notice or agreement and we had multiple conversations on
28 this. One of them is the October 7, 2016 letter that I believe I
29 submitted in documentation. And that was also a continuing
30 conversation up until my last day on February the 8th. And I
31 guess at this time I'd like to confirm that you did receive that.
32 I did upload it to the documents on the website but I'm not
33 100 percent sure that you're looking at it.

- 1 HEARING OFFICER: I'm not.
- 2 ROSS BUCHANAN: It's a one-page letter that has 11 bullet points on it.
- 3 HEARING OFFICER: Yes, I've got it.
- 4 ROSS BUCHANAN: Okay, okay, good.
- 5 HEARING OFFICER: Is this--
- 6 ROSS BUCHANAN: I won't read all into that but I think it's self-explanatory.
- 7 HEARING OFFICER: This is what-- You want to include this as an exhibit on your
8 behalf?
- 9 ROSS BUCHANAN: Yes, sir. Yes, sir, definitely.
- 10 HEARING OFFICER: Mr. Cannon, you got any objections?
- 11 STAN CANNON: I don't know what it is but no, sir.
- 12 HEARING OFFICER: All right. This one page will be entered into the record as
13 Claimant's Exhibit 1.
- 14 **CLAIMANT EXHIBIT NUMBER 1**
- 15 **IS HEREBY ENTERED**
- 16 HEARING OFFICER: All right.
- 17 ROSS BUCHANAN: Okay. Yes, that was a meeting that I had set up with Stan on
18 the morning of Friday, 9:00 a.m. I believe the date was
19 October the 7th. And we sat in his office and one of my
20 witnesses, Craig, was also shown that letter as well and was
21 one of the-- one of the people that I know that could verify it
22 at least existed and was talked about.
- 23 And I believe that's about all the statement that I need to say
24 at this time.
- 25 HEARING OFFICER: Mr. Cannon, you have any questions you want to ask Mr.
26 Buchanan?
- 27 STAN CANNON: No, sir.

1 HEARING OFFICER: Mr. Buchanan, who would you like to call as your next
2 witness?

3 ROSS BUCHANAN: Craig Travis if I could.

4 HEARING OFFICER: Mr. Travis, state your name and spell first and last name.

5 CRAIG TRAVIS: Craig Travis, C-R-A-I-G T-R-A-V-I-S.

6 HEARING OFFICER: And Mr. Travis, what is your title, please?

7 CRAIG TRAVIS: Engineering Production Management.

8 HEARING OFFICER: Okay. Were you Mr.-- Were you--

9 CRAIG TRAVIS: I do several other things around here.

10 HEARING OFFICER: All right. Were you Mr. Buchanan's supervisor?

11 CRAIG TRAVIS: I was, yes. We're a small shop. We kind of work together.
12 We all directly answer to Mr. Cannon.

13 HEARING OFFICER: Okay. Can you explain to me what the policy is concerning
14 deletion of programs?

15 CRAIG TRAVIS: Well, I wouldn't think that the machines should be wiped out
16 of their programs. However, I do understand somewhat that
17 some programs are used to create other programs. I'm not a
18 programmer so I don't really have first-hand knowledge of
19 this kind of stuff.

20 HEARING OFFICER: All right. Is there a policy that you're aware of that prohibits
21 any sort of, you know, deletions of programs from
22 computers?

23 CRAIG TRAVIS: Well, the policy is don't destroy company property, I'm sure,
24 but, I mean, that's universal. Everybody would expect that.
25 And I assume that Mr. Cannon feels that his programs are his
26 property. So I would guess that would be it.

27 HEARING OFFICER: All right. Did Mr. Buchanan come to you and ask if he could
28 delete those programs from the machines?

- 1 CRAIG TRAVIS: He had discussed with me modifying certain programs. He
2 had also stated that he was concerned about the memory on
3 the VF-1, the amount of memory in it. I do remember
4 discussing that with him. He had stated that there-- he felt
5 there was limited memory on the Nakamura. But again, I'm
6 not a programmer so I don't have first-hand knowledge of
7 that but I am aware that he was concerned about it.
- 8 HEARING OFFICER: All right. Is it your responsibility to either approve or deny
9 the request to change machines like that?
- 10 CRAIG TRAVIS: Well, I mean, ultimately we all answer to Mr. Cannon. As far
11 as authority where I would hire or fire someone based on that,
12 I don't yield that authority.
- 13 HEARING OFFICER: I understand. So was any of this-- Was this discussed-- The
14 deletions of this program at this time, was it discussed with
15 you?
- 16 CRAIG TRAVIS: The deletion of all the programs and them being put in, a
17 notebook, no. I have no knowledge of that.
- 18 HEARING OFFICER: Okay. Was this normal practice?
- 19 CRAIG TRAVIS: To delete programs and put them in a notebook?
- 20 HEARING OFFICER: Yes.
- 21 CRAIG TRAVIS: I don't think so. Normally we would put them on the card
22 reader and download them onto a computer.
- 23 HEARING OFFICER: Okay. Is this card reader-- Does it work?
- 24 CRAIG TRAVIS: It has a problem that once in a while I will have to completely
25 drain the battery, leave it overnight, then completely charge
26 the battery overnight, and then it could work with the battery.
27 However, if you plug it in, it's always working. It has a cord
28 on it. You can plug it directly into a power source and it
29 works.
- 30 HEARING OFFICER: Okay.

1 CRAIG TRAVIS: The battery is the problem with it. I think it developed
2 memory and it created an issue with it [INAUDIBLE].

3 HEARING OFFICER: Okay. Mr. Travis, I don't believe I've got any further
4 questions for you. Anything else you want to tell me?

5 CRAIG TRAVIS: No, sir.

6 HEARING OFFICER: Okay, Mr. Buchanan, you have any questions you want to ask
7 Mr. Cannon?

8 ROSS BUCHANAN: Maybe just a few.

9 HEARING OFFICER: I mean-- I'm sorry. You want to ask questions of Mr. Travis?
10 I'm sorry. I said Cannon but you--

11 ROSS BUCHANAN: Oh, oh, yes, you did and I just spoke up. Buchanan and
12 Cannon sound a lot alike.

13 HEARING OFFICER: Yeah.

14 ROSS BUCHANAN: I'll let you ask that again.

15 HEARING OFFICER: Yeah. Mr. Buchanan, do you have any questions you want to
16 ask Mr. Travis?

17 ROSS BUCHANAN: Yes, maybe just a few.

18 HEARING OFFICER: Go ahead.

19 ROSS BUCHANAN: All right. Craig, did-- was-- I guess you-- Have you-- Did you
20 hear what-- my testimony previous to now?

21 CRAIG TRAVIS: Yes, Ross.

22 ROSS BUCHANAN: Okay. Did it-- Did I say anything inaccurate that you know of
23 as far as what I-- what I said about programming and
24 programming issues and so forth? Already knowing the fact
25 that you're not an actual programmer yourself and I
26 understand that. But did it sound like I was making stuff up or
27 did it sound like I was truthful?

1 CRAIG TRAVIS: Well, again, I can't speak from an expert point of view. I'm
2 not a programmer, Ross, so, you know, a lot of that stuff I
3 pretty much have to take the operator's word for it. In that I
4 am at a loss.

5 ROSS BUCHANAN: Okay. Have you ever known me to ruin a machine or damage
6 one or conversely has your experience been that since you've
7 known me and I've been there I basically helped keep the
8 machines up and running?

9 CRAIG TRAVIS: Yes, you've helped me do that quite a bit. But as far as, you
10 know, a crash here or that, that happens to anybody.

11 ROSS BUCHANAN: And were you aware and I guess we'll say approved of-- We
12 know the-- who has ultimate authority and approval there.
13 But as far as you know, were you aware of the repairs that I
14 was doing on the Takisawa with realigning the spindle to be
15 precision grade?

16 CRAIG TRAVIS: Yes. And I felt that my input was helpful as well. I hope it
17 was.

18 ROSS BUCHANAN: Oh, yes, yeah. That goes along with what you said that we all
19 kind of got to work together there and use our best talents. As
20 far-- Have you ever seen me use the GoBox, as we refer to it,
21 the input/output card reader device?

22 CRAIG TRAVIS: I don't recall.

23 ROSS BUCHANAN: Do you recall me saying why I didn't use that thing?

24 CRAIG TRAVIS: That I don't remember. You may have but I don't remember.

25 ROSS BUCHANAN: Okay.

26 CRAIG TRAVIS: Other than your statement earlier.

27 ROSS BUCHANAN: Yes. Were you aware of handwritten notes that I did keep on
28 the clipboard that are in my toolbox area at the Nakamura
29 that-- where I kept notes on machines, tooling, and programs?

1 CRAIG TRAVIS: Yes. At the times we'd discuss something you'd turn to your
2 notes. So yes, I've seen them.

3 ROSS BUCHANAN: And, I guess, would you just say, I guess, in your own words
4 why I would do that or why that would make sense?

5 CRAIG TRAVIS: Well, with anything we do we take notes so we can reference
6 back to it. I guess I'm not understanding--

7 ROSS BUCHANAN: Oh, yes. Let me-- Let me try to say it in plain English. Does it
8 make sense that a man would take notes on everything that he
9 could so that the information wouldn't be lost?

10 CRAIG TRAVIS: That makes sense.

11 ROSS BUCHANAN: Okay. I believe that's all I have.

12 HEARING OFFICER: Mr. Cannon, do you have any questions for Mr. Travis?

13 STAN CANNON: No, sir.

14 HEARING OFFICER: Mr. Treadway, state your name and spell your first and last
15 names.

16 CHAD TREADWAY: Chad Treadway, C-H-A-D T-R-E-A-D-W-A-Y.

17 HEARING OFFICER: And Mr. Treadway, what is your title?

18 CHAD TREADWAY: I just-- I'm shipping manager and I do grinding.

19 HEARING OFFICER: Okay. Is that-- Would you say you're a CNC operator as well?

20 CHAD TREADWAY: Well, I have been in the past, yes.

21 HEARING OFFICER: All right. What was your relationship with Mr. Buchanan?

22 CHAD TREADWAY: Just co-worker.

23 HEARING OFFICER: All right.

24 CHAD TREADWAY: And, I guess--

25 HEARING OFFICER: Do you-- Do you know if it's a-- if it's common practice to
26 delete programs out of a machine?

- 1 CHAD TREADWAY: No, sir. I never have done that.
- 2 HEARING OFFICER: Okay. Do you know the machines that Mr. Buchanan has
3 been talking about?
- 4 CHAD TREADWAY: Yes. I run-- I run a couple of them, yes, sir.
- 5 HEARING OFFICER: Okay. Were they-- Were they lacking in memory?
- 6 CHAD TREADWAY: I could not answer that really because I never set them up. I
7 just run them. I just really push the buttons; the green, go, and
8 stop.
- 9 HEARING OFFICER: Okay.
- 10 CHAD TREADWAY: I never mess with the program.
- 11 HEARING OFFICER: Okay. So if someone-- If programs are deleted from a
12 machine, you would not be able to reset it?
- 13 CHAD TREADWAY: No, sir, not unless I have the program in my hand and I could,
14 you know, write it in there with my hand because I don't
15 know how to use the other stuff to do it automatically.
- 16 HEARING OFFICER: All right.
- 17 CHAD TREADWAY: I do it manually. But I could not write the program. I'd have
18 the program already written. I couldn't do that.
- 19 HEARING OFFICER: Were you aware that Mr. Buchanan had these programs
20 written in a notebook somewhere?
- 21 CHAD TREADWAY: No, sir.
- 22 HEARING OFFICER: Okay. I don't really have any further questions, Mr.
23 Treadway. Anything else you want to tell me?
- 24 CHAD TREADWAY: No, sir.
- 25 HEARING OFFICER: Mr. Buchanan, you got any questions you want to ask Mr.
26 Treadway?
- 27 ROSS BUCHANAN: Maybe just one or two.

1 HEARING OFFICER: Go ahead.

2 ROSS BUCHANAN: So Chad, I think if you-- if I heard you correctly, you said that
3 if somebody handed you a handwritten program that you
4 could type it in and get the program back in, even though
5 you're not a programmer. Is that correct?

6 CHAD TREADWAY: Actually, I've been shown to do that and that's the only
7 reason I could because Rusty has shown me how to do that,
8 but yes. But most--

9 ROSS BUCHANAN: Okay.

10 CHAD TREADWAY: You know, normal the programmer most of the time do it.
11 Not a programmer but an operator.

12 ROSS BUCHANAN: Right. It usually would be up to the job of the operator to put
13 it in there but if push came to shove you could do it.

14 CHAD TREADWAY: Well, yes, sir.

15 ROSS BUCHANAN: And this Rusty, he was a production supervisor or manager
16 prior to when I got there. Is that correct?

17 CHAD TREADWAY: Yes, sir. He was a programmer too.

18 ROSS BUCHANAN: Yes. Did Rusty often type in programs by hand and so forth
19 off of notes?

20 CHAD TREADWAY: Yes, sir.

21 ROSS BUCHANAN: Okay. So you have seen other people do this before?

22 CHAD TREADWAY: Yes.

23 ROSS BUCHANAN: I think that's about all I have.

24 HEARING OFFICER: Mr. Cannon, you got any questions you want to ask?

25 STAN CANNON: No, sir.

26 HEARING OFFICER: All right. Mr. Cannon, I do have-- I want to get a little
27 clarification, please. When you discovered that the programs

1 had been deleted from the machine and you said that you
2 really weren't that concerned about it because you were using
3 the other machines and then when Mr. Buchanan came back
4 you asked him to go out and run a particular job. Well, when
5 he came back in and mentioned that he was either wanting--
6 You know, regardless of how the conversation went, there
7 was talk about additional pay for him. Did you ask at that
8 time if he was running that program or anything else like
9 that?

10 STAN CANNON: No, sir.

11 HEARING OFFICER: Okay.

12 STAN CANNON: I said that it's not that big of a concern, it can be fixed. He's
13 right. You can always put them back in but with him being
14 out that week our other setup man, Joel, went to the machine
15 and he's been doing it many, many years also and he should
16 be able to just pull up the program that was already in there
17 without having to rewrite it. And it was the fact that we're
18 having to go back and be redundant to type it back in the
19 machine when a machine has enough memory to where he
20 could just change over and get his job done instead of costing
21 me four hours of setup time.

22 HEARING OFFICER: Okay. Were-- Okay. So basically, he just was mentioning this
23 additional pay. You thought it was blackmail and fired him. Is
24 that right?

25 STAN CANNON: Correct, yes, sir.

26 HEARING OFFICER: Had you all discussed this issue previously?

27 STAN CANNON: Which issue?

28 HEARING OFFICER: The issue about the pay.

29 STAN CANNON: Yeah. He was originally hired in to do-- to manage the shop
30 and, of course, I've been [INAUDIBLE] manager at large
31 corporations for many years before I went out on my own.

1 And his people skills just weren't there that he couldn't get--
2 the employees couldn't get along and I told him he could stay
3 on if he'd just stay on and do some programming and run a
4 cell. And yeah, I try to let people take ownership. That's why
5 I told him it's his cell, run it, manage it. You know, when
6 somebody leaves for a week vacation or something we should
7 be able to go into that cell and pull the programs up out of
8 that machine and just keep going and keep going without
9 having to retype everything in.

10 HEARING OFFICER: Okay. All right, I don't really have any further questions for
11 you, Mr. Cannon.

12 Mr. Buchanan, based on that testimony and that testimony
13 alone do you have any questions you want to ask?

14 ROSS BUCHANAN: Yes, just one other one that I had forgotten earlier.

15 HEARING OFFICER: Go ahead.

16 ROSS BUCHANAN: And I guess this question would be to Stan. Was I ever asked
17 to run the second shift when it was implemented at more than
18 one occasion?

19 STAN CANNON: Yes, [INAUDIBLE].

20 HEARING OFFICER: Okay.

21 ROSS BUCHANAN: Okay.

22 HEARING OFFICER: Any other-- Any other questions?

23 ROSS BUCHANAN: I don't-- Well, okay, one other just as-- probably just as a
24 clarification. When the machine in question, the Takisawa
25 lathe, when it was down for a month being repaired was it
26 possible to run any jobs on that machine while it was under
27 repair?

28 STAN CANNON: No, of course not.

1 ROSS BUCHANAN: Okay. But it's simple, just a clarification. Not everybody
2 knows all about CNC, just like not everybody knows
3 everything else. I believe that's all I have.

4 HEARING OFFICER: I don't have any further questions for either party at this time.
5 But before we close I'm going to go back to each one of you
6 to find out if there is anything further you want to tell me that
7 we've not already covered.

8 And Mr. Cannon, I started with you. Anything further you
9 want to tell me?

10 STAN CANNON: No, sir.

11 HEARING OFFICER: All right, Mr. Buchanan, anything further?

12 ROSS BUCHANAN: No, sir.

13 HEARING OFFICER: Mr. Travis, anything further?

14 CRAIG TRAVIS: No, sir.

15 HEARING OFFICER: Mr. Treadway, anything further?

16 CHAD TREADWAY: No, sir.

17 HEARING OFFICER: Then having no more questions and hearing no more
18 testimony, I declare this hearing closed.

19 [Recording ended]

20 **HEARING CLOSED**

21

22

CERTIFICATE

This is to certify that this is a copy of the proceedings held in a hearing before Lee Caulder, Administrative Hearing Officer, for the South Carolina Department of Employment Workforce, in the matter of Ross Buchanan, Claimant and Upstate Machine and Manufacturing, LLC, Employer on March 22, 2017, which proceedings were phonographically recorded, transcribed by me, and herein appear.

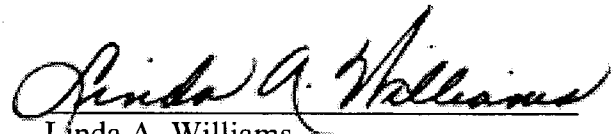

Kathy Boren
Transcriptionist
Williams & Associates

Richmond, Virginia

July 30, 2017

CERTIFICATE

This is to certify that this is a copy of the proceedings held in a hearing before Lee Caulder, Administrative Hearing Officer, for the South Carolina Department of Employment Workforce, in the matter of Ross Buchanan, Claimant and Upstate Machine and Manufacturing, LLC, Employer on March 22, 2017, which proceedings were phonographically recorded, proofread by me, and herein appear.


Linda A. Williams
Proofreader
Williams & Associates

Richmond, Virginia

July 31, 2017

1 UCB-103
REV. 7/10SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 995, COLUMBIA, S.C. 29202

1 ROSS BUCHANAN

DATE OF THIS NOTICE 02/27/17

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE	DISQUALIFICATION ENDS	
ROSS BUCHANAN					02/05/17	06/24/17	
WFC. NO.	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS
900	I	01	\$ 326.00	\$ 6520.00	\$ 6520.00	\$ 0.00	02/04/18

1 DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 ____ You are eligible for benefits from the above effective date.

1 ☒ You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR IMPROPER ACTIONS
1 ON THE JOB. YOUR ACTIONS WERE CONTRARY TO WHAT AN EMPLOYER HAS A RIGHT TO EXPECT. YOU WERE
1 DISCHARGED FOR MISCONDUCT CONNECTED WITH THE EMPLOYMENT UNDER THE SOUTH CAROLINA CODE SECTION
1 41-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20
1 TIMES YOUR WEEKLY BENEFIT AMOUNT.

1 SEPARATION OCCURRED FOR IMPROPER CONDUCT.

1 ____ LAST SEPARATION FROM NON-LIABLE EMPLOYER

____ UI CLAIMS ADJUDICATOR

1 MAILING DATE 02/28/2017

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY WORKFORCE CENTER, BY MAIL, ADDRESSED TO THE 'APPEAL TRIBUNAL,' P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL WORKFORCE CENTER OR THE APPEALS DEPARTMENT AT (803) 737-2520.



SC Department of Employment and Workforce Initial Claims Application

Filing location: Home
Office location: INTERSTATE Claim
Claim creator: Claimant
Worked under a different name: No

Ethnicity

Claimant Hispanic or Latino: No

Claimant

Claimant's name: Ross Buchanan
Date of birth: [REDACTED]
Gender: Male
US citizen: Yes

Aliases

Alias type: SocialSecurityCard
Name: Ross Buchanan

Alias type: Current
Name: Ross Buchanan

Race(s)

* White

Addresses

Address type: physical
Address: [REDACTED]
United States address: Yes

Address type: mailing
Address: [REDACTED]
United States address: Yes

Telephone Number

Telephone number type: Home
Telephone number: 828-460-2563 Ext:

Email Address(es)

Email address type: Personal
Email address: cncreb@hotmail.com
Email certification: Yes

Alien Information

Alien card number: None

Expiration date: No

Veteran Information

Service branch: None

Date entered:

Date released:

Character of service: None

Reason for separation:

Completed first full term of service: No

In the National Guard or a Reserve Unit and served on active No
duty during a period of war or in a campaign or expedition:

Served on active duty in the military for a period of more than 180 days: No

Separated from military in the last 48 months: No

Accrued days lost: No

Accrued leave: 0

(Item #16 on DD-214)

Pay grade:

(Item #4b on DD-214)

Retired from military service: No

Have a service related disability: No

Percent disabled: 0%

Awarded a campaign badge or ribbon for service during a conflict: No

Badges and ribbons: None

Will receive pension: No

Have you worked in the last 18 months : Yes

Employer Name: UPSTATE MACHINE AND MANUFACTURING LLCEmployer delivery address: 485 WALNUT HILL RDEmployer city: CAMPOBELLOEmployer state: SCEmployer zip code: 29322Employer telephone number: 8644729091Bonafide employer: YesWorked for this employer: YesWorked part-time only: NoHire date: 6/15/2015Termination date: 2/8/2017Gross amount made during claim filing week: \$56.00Type of work: Computer-Controlled Machine Tool Operators, MetalEarned at least \$2,608.00: YesOccupational license required: NoJob city: CampobelloJob state: South CarolinaJob duties: cnc machiningChild or spouse of employer: NoOwner or corporate officer of a business: NoAccepting all work offered by the employer: YesInitiated reduction in work hours: NoDischarge reason: Discharged/Terminated/FiredDischarge explanation: Asked employer to discuss my pay and was told to pack up and get out.**Discharge****Discharge Reason: Other**Date of final incident: 2/8/2017

Final incident that caused discharge:

Asked employer to discuss pay and was told to pack up and get out.Discharge date: 2/8/2017Discharged by: Stan CannonTitle of person who discharged you: ownerViolated company policy: NoFinal incident impacted employer's business: Yes

Explain how employer's business was impacted:

I imagine they are having difficulty meeting production quotas since I was a key employee there. I did ask if he was serious about telling me to get my tools and leave, and he repeated it sternly, so I complied. Later that day the office mgr texted me that my last check would be ready for me the next day at noon, so I assumed that his decision was indeed, final.

Received prior warnings: NoFederal employer: NoReceived SF8 form: NoPayroll office address based on SF8: No



SC Department of Employment and Workforce Discharge Report

SSN: [REDACTED]
Claimant's name: Ross Buchanan
Date of birth: [REDACTED]
Local office: 900
Benefit year begin date: 2/5/2017
Benefit year end date: 2/4/2018
Claim type: New
Potentially Eligible: No
Employer name: UPSTATE MACHINE AND MANUFACTURING LLC
Employer Account #: [REDACTED]
Hire date: 6/15/2015
Termination date: 2/8/2017
Discharge reason: Discharged/Terminated/Fired
Earned at least \$2608: Yes
Bonafide: Yes

Discharge

Discharge Reason: Other

Date of final incident: 2/8/2017
Final incident that caused discharge:
Asked employer to discuss pay and was told to pack up and get out.
Discharge date: 2/8/2017
Discharged by: Stan Cannon
Title of person who discharged you: owner
Violated company policy: No
Final incident impacted employer's business: Yes
Explain how employer's business was impacted:
I imagine they are having difficulty meeting production quotas since I was a key employee there. I did ask if he was serious about telling me to get my tools and leave, and he repeated it sternly, so I complied. Later that day the office mgr texted me that my last check would be ready for me the next day at noon, so I assumed that his decision was indeed, final.
Received prior warnings: No

RECEIVED

FEB 17 2017

DEPT. OF UI



B7
Timely ☒ / Not Timely
Issue Code: 01
BYE If Not for 0 Claim: 02/14/17
Converted: Yes ☒ No
HUB

South Carolina Department of Employment and Workforce
Unemployment Insurance Benefits
Request for Information from the Employer

Mr 7

Claimant's Name: Ross Buchanan

SS#: [REDACTED]

Name Worked Under: [REDACTED]

Date Mailed: 02/13/2017

Employer's Account #: [REDACTED]

Return within 10 days
of the above date to:

SCDEW
SC INTERSTATE UNIT, 1550 GADSDEN ST
P.O. BOX 1477
COLUMBIA, SC 29202

Employer's Name & Address:

UPSTATE MACHINE AND MANUFACTURING L
485 WALNUT HILL RD
CAMPOBELLO, SC 29322

Fax Number: 803-737-0539

This person has filed a claim for Unemployment Insurance Benefits and named you as a previous employer. Please select the reason this person no longer works for you and answer the questions that follow so that a determination can be made on eligibility for benefits. If you reply by letter, fax, or email, you must include all information requested, as well as the claimant's name and social security number. For instructions about responding by email, please visit the agency website at www.dew.sc.gov. YOU WILL RECEIVE A DETERMINATION ON THIS CLAIM ONLY IF IT IS FOUND THAT YOU ARE THE BONA FIDE AND/OR CHARGEABLE EMPLOYER.

☒ CLAIMANT'S Reason for Separation: DISCHARGED/FIRED/TERMINATED
Asked employer to discuss my pay and was told to pack up and get out.

SEPARATION INFORMATION: Please check the explanation below that applies and answer the questions that are related to that section.

☐ LACK OF WORK: (NO ADDITIONAL WRITTEN EXPLANATION IS NECESSARY.)

☒ DISCHARGE:

When was the claimant discharged? 2-8-17

What was the reason for discharge? This employee deleted programs from CNC machine without approval and this was done intentionally and was being used A black mail to ask for more money; therefore, when employee approached me to ask for money to restore programs he was discharged immediately.

Does your company have a policy regarding this reason for discharge? ☒ Yes ☐ No

If Yes, what is your company policy? Employee hand book Rules # 2

Sabotage or destruction of company property

Had the claimant been warned? ☐ Yes ☐ No

If Yes, provide dates, reasons for warnings, who gave the warnings, and how the warnings were communicated:
Please attach copies of any written warnings.

Date of the final incident: 2/8/17

What was the final incident that caused the discharge?

(See page #1) and also employee has missed many hours of work in 2017 used all PTO time for the year missed one day of work per week this year on top of PTO time used - week one worked 34.6 hrs / wk 2 - 0 hrs / wk 3 worked 32 hrs / wk 4 worked 22.1 hrs / wk 5 worked 2.8 hrs

☐ VOLUNTARY QUIT/OTHER REASON:

Did the claimant quit in lieu of termination? ☐ Yes ☐ No

If Yes, please complete the discharge portion of this form.

If No, why did the claimant quit?

Explain the employer's understanding of the reason the claimant left:



040000610

☐ **STILL WORKING:**

What were the hours agreed upon when the claimant was hired to work and why were the hours reduced?

N/A

Has there been a reduction in the claimant hours worked? ☐ Yes ☐ No

If Yes, what are the hours the claimant is currently working? N/A

Is the claimant accepting all work offered? ☐ Yes ☐ No

Information below required for all separations:

Dates of employment: From: 7-13-15 To: 2-8-17

During all terms of employment, have you paid this claimant as much as: \$ 2608.00 ☒ Yes ☐ No

If No, how much have you paid this claimant in all terms of employment? \$ _____

Are you paying, or WILL YOU PAY, this claimant a pension or retirement pay? ☐ Yes ☒ No

If Yes, what amount? \$ _____ PER _____

Did claimant contribute to pension plan? ☐ Yes ☒ No If Yes, what percent? _____ %

Employer Name: Stan Cannon UPS Store Machine Account Number: [REDACTED]

Employer Signature: Stan Cannon Title: President

Telephone Number: 864-472-9091 Date: 02/16/17

828-551-7685

**** FORM MUST BE SIGNED IN ORDER FOR INFORMATION TO BE CONSIDERED**

UI-5 NET101
SC DEPARTMENT OF EMPLOYMENT AND WORKFORCE
PO BOX 1477
COLUMBIA SC 29202-1477
OFFICIAL BUSINESS



0001 0000041 Single-Piece

UPSTATE MACHINE AND MANUFACTURING L
485 WALNUT HILL RD
CAMPOBELLO SC 29322-8400

04010000410

South Carolina Department of Employment and Workforce
Unemployment Insurance Benefits

ATTENTION: FAILURE TO RESPOND TIMELY OR ADEQUATELY TO DEW'S REQUEST FOR INFORMATION MAY NEGATIVELY IMPACT YOUR UNEMPLOYMENT TAXES.

Request for Information from the Employer Forms Instructions

A claim for unemployment insurance was filed by an individual who has identified you as a previous employer.

You are receiving this written request for separation information because you are not currently enrolled in the South Carolina Business One Stop (SCBOS) eNotify Program to respond to requests for separation information. You can create an SCBOS account at www.scbos.sc.gov. You may also respond using the State Information Data Exchange Service (SIDES) e-response. To register for SIDES, go to <https://www.research.net/s/SCDEW-SIDES-Registration>. This will allow you to respond electronically to future requests for separation information, rather than on paper, by mail or fax. You are strongly urged to take advantage of the ability to respond electronically. The advantages include savings of time and money, reduced staff time and paperwork, and a standardized format for all information. Complete and accurate separation information is critical in making sound decisions on claims for unemployment insurance, which helps to keep tax rates as low as possible.

Specific questionnaires regarding the most common reasons for separation are enclosed. They are:

- Lack of Work** - Work is not available (layoff, furlough, reduction in force, etc.).
- Discharge/Fired** - Employer initiated separation.
- Voluntary Quit** - Claimant initiated separation.
- Still Working** - Still employed but working reduced hours.
- General/Other** - Separated for a reason other than one listed above.

If this individual was not employed by you, please indicate on form.

Please complete and return the form within 10 calendar days to ensure that a timely and proper decision can be issued on this claim.

If you have questions or need assistance, please call 1-866-831-1724.



SC Department of Employment and Workforce FFATNET Report

BUCHANAN, ROSS

(828) 460-2563

Gender: M

cncreb@hotmail.com

Date of Birth: [REDACTED]

Claim Office: 900

Effective Date: 2/5/2017

Entered On: 2/10/2017

BYE: 2/4/2018

WBA: \$326.00

Interview Appointments:

Issues:

Employers:

Employer Name: UPSTATE
MACHINE AND
MANUFACTURI
NG LLC

Bona fide employer: Yes

Hire date: 6/15/2015

Termination date: 2/8/2017

Earned at least \$2,608.00: No

Owner or corporate officer of a business: No

Employer Acct Number: [REDACTED]

NAICS Code:

Claimant Separation Reason: Discharged/Terminated/Fired

Employer Separation Reason:

Total Wages: \$49,657.00

Employer Issues:

Kind Description: Discharge

Create Date: 2/10/2017 12:00:00 AM

Last Modified Time: 2/24/2017 3:04:58 PM

Attachment Info	Description	Created Time	Upload Date
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Contact Attempts:

Contact Whom: Claimant

Contact Outcome: Left Voice Mail

Contact Type: Phone

Contact Time: 2/24/2017 10:47:46 AM

Action Data: Called Phone Number 8284602563

Note

Contact Whom: Claimant **Contact Outcome:** Contacted Successfully
Contact Type Phone
Contact Time 2/24/2017 3:09:07 PM
Action Data: Called Phone Number 8284602563
Note

(cont) Had he taken the time I could have shown him the programs. The only thing he told me was to pack my stuff and go. As far as me missing work, we had a conversation. We talked about missing work and the fact that my pay was cut. My pay was cut over \$10,000/year. I started making \$52,000/salary and ended making \$42,000/hourly employee.

Contact Whom: Claimant **Contact Outcome:** Contacted Successfully
Contact Type Phone
Contact Time 2/24/2017 3:33:24 PM
Action Data: Called Phone Number 8284602563
Note

(final) I even texted Ladonna/Office manager to let her know I wouldn't come in one day because I was doing a side job and that it was cleared with Stan because of the money issue.

Contact Whom: Employer **Contact Outcome:** Contacted Successfully
Contact Type Phone
Contact Time 2/24/2017 3:39:17 PM
Action Data: Called Phone Number 8644729091 and spoke with Stan Cannon
Note

Claimant Rebuttals:

Employer Name
UPSTATE MACHINE AND
MANUFACTURING LLC

Agree With Employer
False

Statement

That was never stated or discussed on that day or any other day. This never came out of either one of our mouths. It is true there are programs that are routinely deleted. Stan/Owner has very old machines with very small memory spaces and it can't hold many programs but this was procedure. I have been doing this for over 30 years. They did have a device that was inoperable all the time. I am old school so as backup, any programs I have notes.

Employer Name	Agree With Employer	Statement
UPSTATE MACHINE AND MANUFACTURING LLC	False	(cont2) 10/07/16 at 9am we had a meeting. I had an agenda that I discussed with him. I asked him to correct the issues. At the end of 01/2017 I sat down with Stan/owner again about those issues and he started talking about money issues. He started talking about me making side money on the side and that being the best option. We had a verbal agreement about me taking time off during the week to do side jobs.

Employer Rebuttals:

Employer Name	Agree With Claimant	Employer Statement	Paying Pension	Pension Amount	Pension Frequency	Employer Percentage
UPSTATE MACHINE AND MANUFACTURING LLC	False	He deleted the programs on purpose. I am actually going to have him prosecuted. He doesn't work well with people. I have already called the sheriff. Yes I told him he can work part time on side jobs but his separation was because of the programs being deleted and the sabotage.	False			

History Events:

FactFindingIssueCreated at 2/10/2017 12:34:40 AM by Ross Buchanan (PUBLIC\RossBuchanan): Created 'Discharge' Fact Finding Issue for employer 'UPSTATE MACHINE AND MANUFACTURING LLC' with status Submitted as part of submit Claim Application.

FactFindingCreated at 2/10/2017 12:34:40 AM by Ross Buchanan (PUBLIC\RossBuchanan): Fact Finding was created as part of submitting a Claim Application by Ross Buchanan(PUBLIC\RossBuchanan)

StatusChanged at 2/10/2017 7:44:53 AM by SCES\LMJones: Status changed from Initial Claim to Review by the trigger Claim Submit to ABPS.

CheckOut at 2/24/2017 10:46:20 AM by SCES\CPollard: Fact Finding checked out.

SuccessfulClaimantContact at 2/24/2017 10:47:57 AM by sces\cpollard: Claimant via Phone with outcome Left Voice Mail Notes:'new notetest'

ClaimantResponseDueSet at 2/24/2017 10:47:57 AM by sces\cpollard: Claimant Response Due Date Set. Claimant Contact Request Date was 02/24/2017 10:47 AM. Claimant Contact Request Due Date is 02/28/2017 10:47 AM

CheckIn at 2/24/2017 3:04:26 PM by sces\TGarrison: Fact Finding checked in by Supervisor on behalf of 'SCES\CPollard'.

CheckOut at 2/24/2017 3:04:31 PM by SCES\TGarrison: Fact Finding checked out.

FactFindingIssueStatusChange at 2/24/2017 3:04:58 PM by SCES\TGarrison: Fact Finding Issue " Status changed from 'Submitted' to 'Reviewed' by the trigger 'Review Complete'. Employer Name: UPSTATE MACHINE AND MANUFACTURING LLC

SuccessfulClaimantRebuttal at 2/24/2017 3:33:23 PM by sces\TGarrison: Claimant via Phone with outcome Contacted Successfully Notes:'new notetest': '(cont) Had he taken the t...'

ClaimantResponseDueCleared at 2/24/2017 3:33:23 PM by sces\TGarrison: Claimant Response Due Date Cleared Out. Claimant Contact Request Date was [Cleared Out]. Claimant Contact Request Due Date is [Cleared Out]

SuccessfulClaimantRebuttal at 2/24/2017 3:33:50 PM by sces\TGarrison: Claimant via Phone with outcome Contacted Successfully Notes:'new notetest': '(final) I even texted Lad...'

SuccessfulEmployerRebuttal at 2/24/2017 3:44:25 PM by sces\TGarrison: Employer via Phone with outcome Contacted Successfully People:'Stan Cannon' (Owner) Notes:'new notetest'

StatusChanged at 2/24/2017 4:02:48 PM by SCES\TGarrison: Status changed from Employer Response Received to Finalized by the trigger Finalize. Note:'All information was received and imaged. FF Finalized 02/24/17 at 4:02pm'

Notes:

Note Kind: . Finalize Fact Finding Predefined Kind:

Note

All information was received and imaged. FF Finalized 02/24/17 at 4:02pm

#1. I created a job work sheet packet, which included: up to date Prints and Work Order which includes critical dimensions, check off sheet, quantity and due dates. Also included tooling and material ordering information, Run times and Program number's. This was used once to pass an audit and then discarded.

#2. "Hexes" for BRM- Increased production rate to 15 seconds a piece. Program has since been slowed back down.

#3. Re-programed AVL parts to run faster with fewer operations on the mill.

#4. Utilized Hitachi SEIKI Lathe to run all spools. I was told it would not turn any parts.

#5. Re-worked canister program to run on Takisawa Lathe with live tooling never used before, and now 2nd operation runs in 4 minutes, instead of 20 plus minutes, and it is perfect every time.

#6. Repaired and maintained almost every machine in the shop. The first time I did a repair was weeks before I was employed here. There were three machines down that day and I helped repair two of them.

#7. I encouraged the use of standardized inserts and insert tooling. I trained people on when to change them. This works good when they listen.

#8. I changed to 2nd shift and ran it more than once. This works well when everyone doesn't get complacent and slow down.

#9. I have made several deadlines to keep customers satisfied, even with little or no help from others.

#10. I have done many hours of research on line on my own time, at home, off of the clock. In order to accomplish these goals. (None of which was recognized or acknowledged at my demotion and salary cut.)

#11. I formatted a plan to increase production of PCM parts. (This was ignored and obstructed)

In conclusion, I have done my part, but to allow my bonus to be dependent on the cooperation and production of others is a non starter for me, as I have no authority over anyone else in the shop.

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE

DECISION OF APPEAL TRIBUNAL

Hearing Date: 3/22/2017

ROSS BUCHANAN

CLAIMANT

**UPSTATE MACHINE AND
MANUFACTURING LLC
485 WALNUT HILL ROAD
CAMPOBELLO, SC 29322**

EMPLOYER

APPELLANT: Claimant

SS NO: [REDACTED]

APPEARANCES

FOR THE Participated with 2
CLAIMANT: subpoenaed witnesses

FOR THE Participated with 1 witness
EMPLOYER:

FINDINGS OF FACT

The issue in this case is whether the claimant was discharged for misconduct.

The claimant appealed the claims adjudicator's determination mailed February 28, 2017, which held the claimant disqualified from receiving benefits for twenty (20) weeks, effective February 5, 2017, through June 24, 2017, along with a corresponding reduction in the maximum potential benefit amount upon a finding the claimant was discharged for misconduct.

The claimant worked from June 15, 2015, to February 8, 2017, with the subject employer, most recently as a CNC machine operator. The employer discharged him for violating the employee conduct policy. The claimant requested and was granted a one-week (1) vacation. During the vacation, the employer needed to use the machines he was responsible for. It was then the employer discovered all of the programs had been deleted from the machines. The employer got someone else to reprogram and use the machines. When the claimant returned to work the claimant asked him to run a job on his machines. A little while later, the claimant approached the employer and said he wanted to discuss an unresolved financial issue before he did the job. The claimant said he could get the machines programmed but he wanted a raise. The employer felt he was blackmailing them and discharged him immediately. The claimant denied this was his intention. He wanted to discuss what he considered a lack of pay for the job he was hired to do and he had discussed this with the employer previously. The claimant also admitted to

Date Mailed: 3/24/2017

deleting the programs but asserted he wrote them in a notebook he kept. He used this method rather than the machine the employer had for backing up programs because he wasn't comfortable using the machine. The claimant also asserted he had "cannibalized" programs for use on other machines. The employer contended no one had authority to delete programs without authority and the fact the claimant admitted to doing so and then asking to discuss payment lead him to consider this blackmail.

REASONS

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty (20) weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of his employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer.

An employer has the right to expect their employees to comply with their reasonable rules and policies. In this case, the claimant admitted to deleting the program as an energy-saving method. He also admitted to keeping the programs in a notebook that only he knew about and not on the employer-supplied backup machine. Although the claimant denied using his knowledge of programming as something to extort extra pay from the employer, the employer's depiction of events explains the perception. Despite the claimant's denial of extortion, the fact that he deleted the programs without permission displays a substantial disregard for the employer's interest. Therefore, the Appeal Tribunal finds the claimant was discharged for misconduct and the law requires a disqualification.

DECISION

The Appeal Tribunal hereby holds the claimant disqualified from receiving benefits for twenty (20) weeks, effective February 5, 2017, through June 24, 2017, along with a corresponding reduction in the maximum potential benefit amount, upon finding the claimant was discharged for misconduct. This decision **affirms** the determination mailed February 28, 2017.

This will be the final decision of the Department, unless you file an appeal to the Appellate Panel setting forth in detail the grounds for appeal within ten (10) calendar days, including weekends and holidays, from the mailing date of this decision. If the tenth day falls on a Saturday, Sunday or holiday, the appeal period is extended to the next business day. Your appeal may be filed by mail addressed to "Appellate Panel, Post Office Box 1752, Columbia, South Carolina, 29202", by fax at 803.737.3166 or by claimants through your MyBenefits Portal or by employers via your SCBOS portal. For additional information on filing an appeal, visit our web site at www.dew.sc.gov/appeals.asp.



Leland M. Caulder, Jr.

Administrative Hearing Officer

Mailed By : hb

Date Mailed: 3/24/2017

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE

631 Hampton Street
P.O. Box 1752
Columbia, SC 29202

NOTICE OF CLAIMANT APPEAL TO THE APPELLATE PANEL

APPEAL NO: 1702972

CLAIMANT:

ROSS BUCHANAN


LIABLE EMPLOYER:

UPSTATE MACHINE AND MANUFACTURING LLC
485 WALNUT HILL RD
CAMPOBELLO ,SC, 29322

SEPARATING EMPLOYER:

The Claimant in this case appealed the Appeal Tribunal Decision to the Appellate Panel for review. A Copy of the appeal is attached.

The Panel will review your case as soon as possible, and may issue a decision based solely on its review of the record on appeal or may schedule an in-person hearing. Hearings are conducted at the Appellate Panel offices in Columbia. **You may request a hearing by calling (803) 737-0239 or by mailing a written request to the P.O. Box listed above.** The Panel, at its sole discretion, may grant or deny the request. If a hearing is scheduled, a copy of the transcript and the hearing notice will be mailed to you at a later date.

SPECIAL NOTE: The Appellate Panel can make its own factual findings and may reverse, affirm, or modify the decision on the appeal. **Be advised that this may result in an increase or decrease of the disqualification.**

Claimants must continue filing a weekly claim pending the appeal to receive benefits. Any benefits received by the claimant may be subject to recovery if the Appeal Tribunal Decision is reversed.

Higher Authority Appeals Department
Telephone: (803) 737-0239

Cc: ☒ -Claimant ☐ -Sep Emp ☒ -File ☒ -Liabile Emp ☐ -Local Office ☐ -Claimant's Atty ☐ -Emp's Atty ☐ -UI Tech ☒ -Imaging

Date Mailed: 4/3/2017

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

P.O. BOX 1752, COLUMBIA, SC 29202

APPLICATION FOR LEAVE TO APPEAL TO THE APPELLATE PANEL

Claimant's Name: Ross Buchanan Social Security Number: [REDACTED]
Address: [REDACTED] Date of Initial Claim: 3/28/2017
Telephone Number: 828-685-7556
Employer's Name: Upstate Machine Address: 485 Walnut Hill rd. Campobello SC, 29322
Party Appealing: Claimant

On 3/27/2017, I received Appeal Tribunal Decision Number 2017-A-03284 mailed to me on
(Date of Receipt)

3/24/2017 and ask for review of the record on the following grounds:
(Mailing Date on Decision)

Errors in findings of fact, reasons, and decision.

Blackmail and extortion are very serious allegations. It's bad enough the employer made this false accusation but for the hearing officer to seemingly confirm it, is reckless, since this is now part of the written transcripts.

I called witnesses who gave testimony to refute that I wasn't authorized to delete programs and that I was the one with the most knowledge and experience in CNC maintenance. This was misunderstood as an energy saving method instead of a necessity, due to memory capacity and inoperable or total lack of proper backup equipment and methods.
If you listen carefully to the testimony given, I think you will find cause to reconsider this decision.

*If appeal is untimely, state the reason. If appellant failed to attend Appeal Tribunal hearing, state the reason and whether postponement was requested:

☒ I Agree I know that I must continue to file my claims for each week of unemployment during the pendency of this appeal, I know that I can only be paid for those weeks that I have timely claimed. If I have received benefits and am ruled disqualified or ineligible, I know that I will be required to repay the benefits I have received for that time period.

**As a Board of Review, the Appellate Panel is confined solely to the record submitted by the Appeal Tribunal and does not accept additional evidence or testimony in its consideration of the appeal.

Appellant: Claimant

Title: Former employee

Date: 3/28/2017

Does claimant need an interpreter? Yes ☒ No What language/dialect?

Date Mailed: 4/3/2017

3/28/2017 8:33:38 AM
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FAX

To:

Company:

Fax: 18037373166

Phone:

From:

Fax:

Phone:

E-mail:

NOTES:

Date and time of transmission: Wednesday, March 29, 2017 4:20:12 PM
Number of pages including this cover sheet: 02

Form App-111 NET Rev 2/13
Catalog#: 05172Appeal No. 1702972**SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE**
P. O. BOX 1752, COLUMBIA, SC 29202**APPLICATION FOR LEAVE TO APPEAL TO THE APPELLATE PANEL**Claimant's Name ROSS BUCHANAN

SSN [REDACTED]

Address [REDACTED]

Telephone Number 828 - 685 - 7556Employer's Name UPSTATE MACHINE Address 485 WALNUT HILL RD. CAMPOBELLO SC
29322

Please refer to Decision of Appeal Tribunal to complete section below.

On 3/27/2017, I received Appeal Tribunal Decision Number 2017-A-03284
(Date of Receipt)mailed to me on 3/24/2017. I ask for review of the record on the following grounds:
(Mailing Date on Decision)

TESTIMONY INDICATES I DID NOT VIOLATE ANY POLICY AND
SAID POLICY DID NOT EVEN EXIST.
PLEASE SEE ATTACHED PAGE.

* If appeal is untimely, state the reason. If appellant failed to attend Appeal Tribunal hearing, state the reason and whether postponement was requested:

I must continue filing my claims for each week of unemployment while my appeal is pending; I can only be paid for those weeks that I have timely claimed. If I have received benefits and am ruled disqualified or ineligible, I will be required to repay the benefits I have received for that time period.

****As a Board of Review, the Appellate Panel is confined solely to the record submitted by the Appeal Tribunal and does not accept additional evidence or testimony in its consideration of the appeal. For this reason, subpoenas for appeals to the Appellate Panel will not be issued.**

Who is filing appeal: ☒ Claimant ☐ EmployerSignature: R.E. BuchananTitle: FORMER EMPLOYEE Date 3/29/17Does claimant need an interpreter? ☐ YES ☒ NO If yes, what language/dialect? _____Claimant is ☐ Deaf ☐ Mute

Please submit form by fax to 803.737.3166 or by mail to "Appellate Panel, P.O. Box 1752, Columbia, SC 29202."

FAX

To:

Company:

Fax: 18037373166

Phone:

From:

Fax:

Phone:

E-mail:

NOTES:

Date and time of transmission: Wednesday, March 29, 2017 4:26:06 PM
Number of pages including this cover sheet: 02

FINDINGS OF FACT:

- 1) Still a de facto production manager, despite claim that I was a "CNC machine operator. There is a world of difference between the two, from skill level to duties and responsibilities.
- 2) Machines were not in fact needed or used during my vacation, other than to finish one job that I set up and instructed the operator to run the next day. In fact I was told in December by Stan that we were still ahead on the canister job, thanks to the fact that I programmed it to run in 3 minutes instead of the former 20 minute cycle time.
- 3) I never asked for a raise - Period.
If you look at my W-2's and weekly salary going back to when I started, you have the documentation that I was making \$1,000 a week by our agreement. Stan reneged on his part 4 months later, which I noted with the statute violation on my last appeal. I asked repeatedly to have my agreed upon salary reinstated, not an increase above that.
- 4) I did not state I didn't use the "GoBox" because I wasn't comfortable. It was because the batteries were always dead, it was not compatible with several of the machines and the only one who knew how to operate it was Stan's nephew Jake, who was a constant source of trouble for me.
- 5) I did in fact have authority to add, delete or modify any programs in the shop, by Stan himself.
- 6) If I had wanted to blackmail or extort Stan, there were numerous criminal acts committed in my presence from which to choose. That allegation is libelous and ridiculous.
- 7) Equally ridiculous is the fact that Stan could have had any programs he wished before dismissing me, all he had to do was ask. He prefers to manage by fear and intimidation however and was annoyed by my requests to pay me what we agreed upon. At the time of my dismissal he was approximately \$17,000 in arrears to me.
- 8) If you desire further proof of his tactics, contact your legal department in Columbia. I gave the name and phone number of the person I spoke with on my last appeal statement as well. He attempted to illegally force me to work without pay and one of my subpoenaed witnesses was a victim of that also.
- 9) I have over 25 years of experience in the CNC industry and know a good apple from a bad one. Don't let one bad apple spoil the reputation of the whole state. South Carolina has worked too hard to bring good industry here and attract a good work force. Please don't condone an injustice by letting this decision stand.

Thank you,
Ross Buchanan

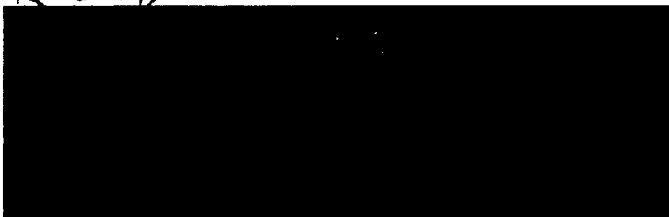
R.E. Buchanan

3/29/17

APPEAL # 1702972

DECISION # 2017-A-03284

LEB



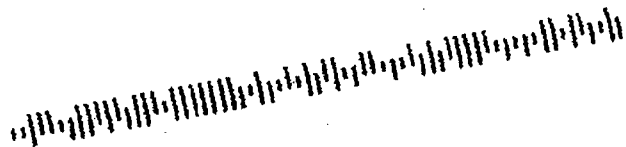
GREENVILLE SC 296
11 APR 2017 PM 4 L



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SC DEW
631 HAMPTON ST.
PO. BOX 1752
COLUMBIA SC 29202

RECEIVED
APR 13 2017
SC DEW
HIGHER COURT APPEALS



29202-175252

To the Appellate Panel:

I would be more than happy to attend any hearing should you desire to have one and would welcome the opportunity to defend myself in person. However, due to the facts already submitted at the last hearing, I don't believe you will find this necessary.

Thank you,
Ross Buchanan

SS# [REDACTED]
Appeal# 1702972

R. E. Buchanan

4-11-17

RECEIVED

APR 13 2017

SCDEW
HIGHER AUTHORITY APPEALS

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
(SCDEW)
Columbia, South Carolina

NOTICE OF MAILING OF APPELLATE PANEL DECISION

Attached is a copy of the final agency decision of SCDEW in this case. Any further appeal is to the South Carolina Administrative Law Court. To obtain judicial review of this decision, you must comply with the requirements of S.C. Code Ann. § 41-35-750 and the Rules of Procedure of the Administrative Law Court. The Court may require a filing fee.

The law requires that a Petition for Judicial Review must be filed with the Court and served on all parties and SCDEW within thirty (30) days from the date of mailing of the agency's final decision (**see the mailing date above**).

The address of the Administrative Law Court is:

**S.C. Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201**

Service of the Petition on SCDEW must be addressed and mailed to:

**Office of General Counsel
S.C. Department of Employment and Workforce
Post Office Box 8597
Columbia, SC 29202**

SCDEW cannot advise a party on any legal matter. For legal advice or assistance in filing an appeal to the Administrative Law Court, you should consult an attorney licensed to practice in South Carolina.

Form App-115
Rev.8/12

Date Mailed: 5/12/2017

DECISION NO: 2017-P-04668

APPEAL NO: 1702972

**SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina**

ROSS BUCHANAN



CLAIMANT SSN:



**APPELLATE PANEL
DECISION**

**UPSTATE MACHINE AND
MANUFACTURING, LLC
485 WALNUT HILL ROAD
CAMPOBELLO, SC 29322**

Appellant: Claimant

The claimant appealed Appeal Tribunal Decision 2017-A-03284 to the Appellate Panel. The Tribunal held the claimant disqualified from benefits, upon finding he was discharged for misconduct. This decision affirmed the claims adjudicator's determination.

The Appellate Panel issued its decision upon review of the record on appeal.

DECISION

Appeal Tribunal Decision 2017-A-03284 is affirmed. The claimant is disqualified from benefits for twenty weeks, from February 5, 2017, to June 24, 2017, with a corresponding monetary reduction, upon finding he was discharged for misconduct connected with the employment.

The claimant worked from June 15, 2015, to February 8, 2017, most recently as a CNC machine operator. The employer discharged the claimant for requesting a raise in exchange for restoring programs he deleted on the employer's equipment. The employer granted the claimant a week of vacation. While the claimant was out, the manager noticed the programs were deleted on three machines the claimant regularly used. The remaining employees were unaware the claimant had deleted the programs off of the machines. When the claimant returned, the manager requested he begin working on a project. A few hours later, the manager contends the claimant approached him and stated he could reinstall the programs and complete the task for additional money. The manager inferred the claimant's statement as an attempt to extort the employer. Consequently, the employer discharged the claimant. The claimant asserts he was discharged for stating he needed to discuss an unresolved financial situation. He further asserts he regularly deleted the programs because of limited memory and power on the machines, and that he kept the programs

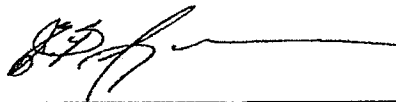
Date Mailed: 5/12/2017

written in a notebook. The claimant stated he had been regularly requesting a pay increase since October 2016. The manager maintains there was enough memory on the machines to retain the programs and that it cost approximately four hours of production time to rewrite the programs. The manager acknowledges the claimant discussed a pay increase in the past because the claimant was demoted from a management position based on his lack of people skills. The claimant denies he attempted to extort the employer.

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of an employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

The statements presented are in dispute; however the greater weight of credible evidence establishes the claimant requested a pay increase in exchange for restoring programs he deleted on the employer's equipment. For the limited purposes of determining unemployment insurance benefits, we find the claimant's testimony lacks credibility that he was terminated for requesting a pay increase based upon the undisputed testimony that the claimant regularly spoke with the manager about a pay increase. The claimant's conduct in demanding the employer pay him additional money in exchange for reinstalling programs onto the employer's equipment was a deliberate disregard for the standard of behavior the employer had the right to expect. Therefore, we find the claimant was discharged for misconduct connected with the employment. The Appeal Tribunal decision is affirmed.

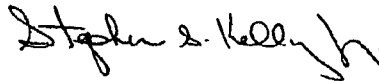
**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**



E.B. Ayers



Tim Dangerfield



Stephen S. Kelly, Jr.

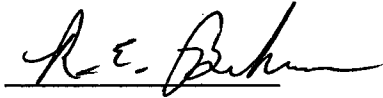
Review Date : 5/9/2017

Date Mailed: 5/12/2017

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 20, 2018.



Ross E. Buchanan, pro se
73 Doris Lisa view dr.
Hendersonville NC 29792
(828) 685-7556

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SEP 06 2018
SC Court of Appeals