



Maryland

Department of Economic & Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032

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

— DECISION —

	Decision No.:	290-BR-91
	Date:	March 14, 1991
Claimant: Elizabeth Jenkins	Appeal No.:	9016353
	S. S. No.:	
Employer: Manning Broadcasting, Inc.	L. O. No.:	4
	Appellant:	CLAIMANT
Issue:	Whether the claimant is receiving or has received dismissal payments or wages in lieu of notice, within the meaning of Section 6(h) of the law.	

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON April 13, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

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

Since the claimant's job was not abolished, the severance pay received is deductible from benefits, under Section 6(h) the law.

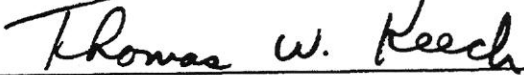
The Hearing Examiner's method of calculating the deduction from benefits, however, is incorrect. The Hearing Examiner calculated the number of weeks' salary received, and disqualified the claimant for four weeks' benefits. But the claimant's commissions should also have been counted. Since, according to the testimony, the claimant earned \$17,000 total remuneration for 10 months' work, her total weekly remuneration (salary and commission) averaged \$395 per week. The severance pay received by the claimant, therefore, equals only one week's pay.

Severance pay received is "to be allocated to a number of weeks following separation from employment equal to the number of weeks' pay received," Section 6(h). Since the claimant received one week's pay, she should be disqualified for only the one week immediately following separation from employment. The fact that she received it in two separate checks is irrelevant.


DECISION

The claimant received dismissal payments within the meaning of Section 6(h) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits for the week beginning November 4, 1990 only.

The decision of the Hearing Examiner is modified.



Chairman



Associate Member

K:HW

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - HAGERSTOWN

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— D E C I S I O N —

Claimant:	Elizabeth Jenkins	Date:	Mailed: 1/16/91
		Appeal No.:	9016353
		S. S. No.:	
Employer:	Manning Broadcasting, Inc.	LO. No.:	004
		Appellant:	Claimant

Issue: Whether the claimant is receiving or has received dismissal payments or wages in lieu of notice, within the meaning of Section 6(h) of the Law.

— NOTICE OF RIGHT OF FURTHER APPEAL —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON January 31, 1991

— A P P E A R A N C E S —

FOR THE CLAIMANT:	FOR THE EMPLOYER:
Claimant - Present	Not Represented

FINDINGS OF FACT

The claimant was employed by the Manning Broadcasting, Inc. in August, 1985. At the time of her separation from employment on October 31, 1990, she earned \$100 per week plus commission as an account executive.

The claimant was discharged from employment on October 31, 1990 due to low sales. At that time, she was given her paycheck for

work performed the previous week. On November 15 and November 30, 1990, the claimant received \$200 severance pay, totalling \$400.

CONCLUSIONS OF LAW

Article 95A, Section 6(h), provides that for any week in which a claimant receives dismissal payment, such payments are to be allocated to a number of weeks following the separation from employment equal to the number of weeks' pay received. In this case, the claimant received four weeks' severance pay on November 15 and November 30, 1990. Remuneration received by the claimant for the week ending November 3, 1990 was in payment for services performed the previous week. This does not amount to dismissal pay, within the meaning of Section 6(h) of the Law.

DECISION

The claimant received dismissal pay, within the meaning of Section 6 (h) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning November 4, 1990 and the three weeks immediately following.

The determination of the Claims Examiner is modified.


Sarah Moreland
Hearing Examiner

Date of Hearing: 12/27/90
ps/Specialist ID: 04458
Cassette No: 10562
Copies mailed on 1/16/91 to:

Claimant
Employer
Unemployment Insurance - Hagerstown (MABS)