

- DECISION

EMPLOYER:

CHARLES B. KAPRIELIAN

DATE: January 21, 2011

DECISION #3-SE-11

DETERMINATION #1010891

EMPLOYER ACCT.#

ISSUE : Whether benefits paid to JULIETA TERRAZAS, SS#: , are proper and chargeable to the employer's unemployment insurance account.

- NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how to file the appeal can be found in many public libraries, in the *Maryland Rules of Procedure, Title 7, Chapter 200*.

The period for filing an appeal expires: February 21, 2011

- APPEARANCES -

FOR THE APPELLANT:
Charles B. Kaprielian

FOR THE SECRETARY:
Sheldon Narrow, Appeals Representative

EVALUATION OF THE EVIDENCE

The Board of Appeals finds, based upon the preponderance of the credible testimony and evidence presented by the parties, that this employer is entitled to relief from the benefit charges herein. In this case the evidence supports a finding that the employer employed the claimant on a continuous part-time basis and continues to do so. As such, the provisions of Title 8, Section 611(g) apply prohibiting the charging of this employer's earned rating record.

FINDINGS OF FACT

The claimant in this case, JULIETA TERRAZAS, SS#: , is a continuous part-time employee of CHARLES B. KAPRIELIAN, the employer/appellant herein. The claimant cleans the house of the employer once a week. The effective date for the Maryland Unemployment Insurance claim of JULIETA TERRAZAS regarding other employment was May 30, 2010. The claimant's weekly benefit amount was \$300.00. The base period for this claim covered the 1st quarter of 2009, through the 4th quarter of 2009. The claimant worked for this employer during all of the aforementioned quarters on a continuous part-time basis and continues to do so.

The employer received a quarterly benefit charge notice showing the payment of benefits to this claimant which had been charged to this employer's unemployment insurance account. The employer filed a timely protest by letter dated October 19, 2010 (Employer Exhibit #2). That letter, in pertinent part, provided the following information:

1. That the claimant was presently employed on a part-time basis by this employer,
2. That the claimant has never been separated from her employment with this employer, that she cleans the employer's house once a week,
3. That the employer believed that his unemployment insurance contribution tax rate should not go up because of the claimant's filing an unemployment claim when separated from other employment, and
4. That the claimant works part-time for several employers.

Review Determination #1010891 dated November 1, 2010 stated "Per agency records charges can not be removed for your employer account because all of the claimant's base period employers are part-time employers. Charges are in order" (Agency Exhibit #1). The employer filed a timely appeal thereto by letter dated November 8, 2010 (Employer Exhibit #1).

The claimant has been and is presently employed on a continuous part-time basis by the employer herein. This part-time continuous employment continues while the claimant is separated from other employment and is eligible for benefits because of that separation.

The review determination herein (Agency Exhibit #1) has no basis in law and displays no apparent analysis of the information provided by the employer in relation to the provisions of Maryland Code Annotated, Labor and Employment Article, Title 8, Section 611(g). Section 8-611(g) provides that the

Secretary may not charge the earned rating record of the employing unit that has employed a claimant on a continuous part-time basis and continues to do so while the claimant is separated from other (emphasis added) employment and is eligible for benefits because of that separation. The definition of "other" is set forth in The American Heritage Dictionary of the English Language, 1982 Edition, as "Different from that or those implied or specified". The clear meaning of "other employment" - both by law and definition does not differentiate between full-time or part-time employment.

The facts in this case support a finding that the claimant is employed by this employing unit on a continuous part time employment basis. Thus, the employer is entitled to relief pursuant to the provisions of Section 8-611(g).

CONCLUSIONS OF LAW

The Maryland Code Annotated, Labor and Employment Article, Title 8, Section 611(g) provides that the Secretary may not charge the earned rating record of the employing unit that has employed a claimant on a continuous part-time basis and continues to do so while the claimant is separated from other employment and is eligible for benefits because of that separation.

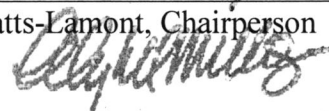
DECISION

It is held that the benefits paid to JULIETA TERRAZAS, SS#: are not proper and chargeable to the employer's unemployment insurance account.

Review Determination #1010891 is hereby reversed.



Donna Watts-Lamont, Chairperson



Clayton A. Mitchell, Sr., Associate Member

YJ

Copies mailed to:

SHELDON NARROW

HARRY FRIEDMAN

MARIUS CHUKWURAH

BETTY MULL

JERRY Y. PLACEK

MARK A. SORRENTINO

SCOTT LUCAS

CHARLES B. KAPRIELIAN