

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033



William Donald Schaefer, Governor
J. Randall Evans, Secretary

BOARD OF APPEALS

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

— DECISION —

Decision No.: 429-BR-89
Date: May 23, 1989
Claimant: Tina Dean
Appeal No.: 8900725
S. S. No.:
Employer: High's of Baltimore, Inc.
L. O. No.: 8
Appellant: CLAIMANT
Issue: Whether the claimant was able to work, available for work and actively seeking work, within the meaning of Section 4(c) 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 MAYBE 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.

June 22, 1989

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner and concludes that the claimant was able to work, effective December 26, 1988, the date she was released by her physician to return to full-time work.

The Hearing Examiner's continuation of the disqualification until January 26, 1989, when the release was received by the agency, is incorrect. The disqualification under Section 4(c) should end when the claimant is released and not when the agency learns of this release. Further, the Board notes that the record contains physicians' statements releasing the claimant, that were written prior to January 26, 1989.

DECISION

The claimant is not disqualified from receiving benefits from the week beginning December 25, 1988, within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law.

The decision of the Hearing Examiner is reversed.


Associate Member


Chairman

HW: K

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Richard Sargent, Esq.

UNEMPLOYMENT INSURANCE - ANNAPOLIS

STATE OF MARYLAND
APPEALS DIVISION
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
(301) 388-8000

STATE OF MARYLAND
WORKERS COMPENSATION
COMMISSION

— DECISION —

Claimant: Tina P. Dean
Employer: High's of Baltimore, Inc.
Issue: Whether the claimant was able, available and actively seeking work, within the meaning of Section 4(c) of the Law.

Date Mailed: March 14, 1989
Appeal No: 8900725
S.S. No.:
L.O. No.: 8
Appellate: Claimant

— 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 EMPLOYMENT SECURITY OF OR WITH THE APPEALS DIVISION, ROOM 818, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON March 29, 1989.
NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

— APPEARANCES —

FOR THE CLAIMANT:

Tina P. Dean - Claimant

FOR THE EMPLOYER:

Not Represented

Other: Nikki Gladding,
Local Office,
Unemployment
Insurance,
Supervisor

FINDINGS OF FACT

The claimant filed a claim for unemployment insurance benefits at the Annapolis local office establishing a benefit year beginning December 25, 1988. Benefits were denied the claimant for a week, beginning December 25, 1988, then until she met the requirements of the Law. She had a disability/handicap which may have restricted her ability to work.

Medical testimony presented indicated that the claimant was released to return to work on a full-time basis, on December 26, 1988. This information was received at the Annapolis local office on January 16, 1989.

Because the signatures on two medical statements furnished to the local office did not seem to be the same, the claimant was given until February 27, 1989 to furnish additional medical testimony. This was received by the undersigned Hearings Examiner within the time frame established.

The claimant is presently working part-time.

CONCLUSIONS OF LAW

Section 4(c) of Law provides that an unemployed individual is eligible to receive benefits, only if it is determined that she is able to work, and actively seeking work. Based upon the medical testimony presented, it is concluded that the claimant was released by her doctor to return to full-time work as of December 26, 1988. However, the information was not received by the Agency until January 26, 1989. Based upon this information it is concluded that the claimant will be eligible for benefits when the release information was received by the Agency and the claimant will be disqualified until that time. Benefits are denied for the period-beginning December 25, 1988 until January 28, 1989. Benefits are allowed after that time, if the claimant is otherwise eligible under the Law. The determination of the local office is modified.

DECISION

The claimant is disqualified under Section 4(c) of the Maryland Unemployment Insurance Law for the period beginning December 25, 1988, until January 28, 1989. Benefits are allowed for the week beginning January 29, 1989, if the claimant is otherwise eligible under the law.

The determination of the Claims Examiner is hereby modified.


Seth Clark
Hearing Examiner

Date of hearing: February 13, 1989
bch/Specilaist ID: 08005
Cassette No.: 838
Copies mailed on March 14, 1989 to:

Claimant
Employer
Unemployment Insurance - Annapolis (MABS)