



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.:	585-BR-91
	Date:	May 17, 1991
Claimant: Jeannette Knight	Appeal No.:	9102906
	S. S. No.:	
Employer: Vincent Butler, Esq.	L. O. No.:	43
	Appellant:	EMPLOYER

Issue: Whether the claimant was discharged for gross misconduct or misconduct, connected with her work, within the meaning of Section 6(b) or 6(c) of the law; whether the claimant filed a timely appeal or had good cause for an appeal filed late, within the meaning of Section 7(c)(3) 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

June 16, 1991

— 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 on the issue of timely appeal under Section 7(c)(3) of the law.

The Hearing Examiner decided that the employer's appeal was late. She found as a fact that the last date to appeal the benefit determination was February 19, 1991. This finding undoubtedly came from the form DET/UIA 941, which recited this fact.

As has happened in many cases in the past, however, the form DET/UIA 941 was wrong. The last day to appeal was actually February 21, 1991. It was filed on that date. The Appeals Division should remain aware that this form does not always show correctly the last date to appeal.

Since the appeal was filed timely, the Board reverses the decision under Section 7(c)(3) of the law. The employer filed a timely appeal.

The Board does note, however, that the employer's witness's testimony on this issue was not credible. Mrs. Butler testified that she personally delivered the letter of appeal on February 19th, but that it was probably not logged in until the 21st. The Board does not believe this testimony. On other issues as well, the Board did not find this witness's testimony credible.

The Board has also reviewed the record for the purpose of making a decision on the merits of the case.

The claimant was employed¹ as a part-time office manager for a small law firm, making \$15 an hour. Although hired for this position, she was not given office manager duties. The employer was dissatisfied with some of her transcription and with the quantity of her work using a computer software system. The claimant, however, was working to the best of her ability, and many of her problems were caused by a poorly equipped and disorganized office.

The claimant was discharged because the employer was unhappy with the claimant's work product, but the claimant was working to the best of her ability, given the detrimental situation in the office. The employer has not met its burden of showing that the claimant committed any degree of misconduct.

¹The claimant certainly appears to meet the requirements for being considered an employee under Section 20(g)(6) of the Maryland Unemployment Insurance Law. The statement is not a ruling on this issue, however. The agency may wish to ascertain whether the employer has properly reported payments made to this claimant.

DECISION

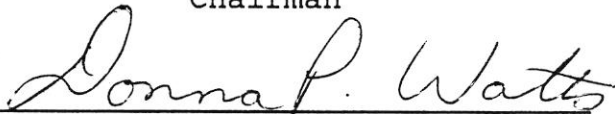
The employer filed a timely appeal, on February 21, 1991, within the meaning of Section 7(c)(3) of the Maryland Unemployment Insurance Law.

The claimant was discharged, but not for any misconduct within the meaning of Section 6(b) or 6(c) of the Maryland Unemployment Insurance Law. No penalty is imposed under Section 6 of the law based upon her separation from employment with Vincent Butler. The claimant may contact her local office regarding the other requirements of the law.

The decision of the Hearing Examiner is affirmed in part, reversed in part.



Chairman



Associate Member

K:DW

kbm

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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WHEATON



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

— DECISION —

Claimant:	Jeannette N. Knight	Date:	Mailed: 03/22/91
		Appeal No.:	9102906
		S. S. No.:	
Employer:	Vincent Butler	L.O. No.:	43
		Appellant:	Employer

Issue: Whether the claimant was discharged for misconduct connected with the work, within the meaning of Section 6(c) of the Law.
Whether the appealing party filed a timely appeal or had good cause for an appeal filed late, within the meaning of Section 7(c)(3) of the Law.

— NOTICE OF RIGHT TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW 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 PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

April 8, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant - Present

Mary Francis
Butler,
Office Manager

FINDINGS OF FACT

A benefit determination mailed to the parties provides that the last day to file a timely appeal was February 19, 1991.

In this case, the appeal was either postmarked or filed in

person on February 21, 1991.

The appellant offers as a reason for late appeal that their office was "backlogged in our work." The office manager was unwilling to put the appeal in the mail; instead, she decided to hand carry it over because the office is close to the Wheaton Unemployment Office. This employer is a small law firm.

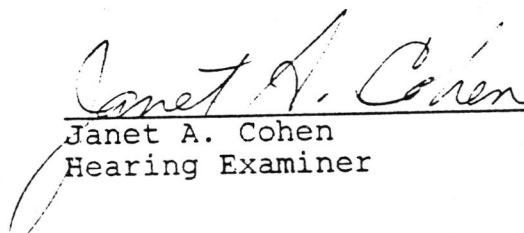
CONCLUSIONS OF LAW

In Premick v. Roper Eastern (141-BR-83), the Board of Appeals conferred upon the Appeals Division its own jurisdiction granted pursuant to Article 95A, Section 7(c)(3) to rule upon the issue of timeliness of appeal as well as the issue of good cause in the filing of a late appeal. In the instant case, the evidence will support a conclusion that the appellant filed a late appeal for reasons which do not constitute good cause under the provisions of Article 95A, Section 7(c)(3) and legal precedent construing that action.

DECISION

It is held that the appellant did not file a valid and timely appeal within the meaning and intent of Article 95A, Section 7(c)(3).

The determination of the Claims Examiner (and any disqualification applied), remains effective and unchanged.



Janet A. Cohen
Hearing Examiner

Date of Hearing: 03/11/91
dma/Specialist ID: 43726
Cassette No.: 2569A
Copies mailed on 03/22/91 to:

Claimant
Employer
Unemployment Insurance - Wheaton (MABS)