



**DEPARTMENT OF EMPLOYMENT AND TRAINING**

STATE OF MARYLAND  
HARRY HUGHES  
Governor

BOARD OF APPEALS  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

(301) 383-5032

**BOARD OF APPEALS**

THOMAS W. KEECH  
Chairman

HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members

SEVERN E. LANIER  
Appeals Counsel

MARK R. WOLF  
Chief Hearing Examiner

**- DECISION -**

Decision No.: 701-BH-84  
Date: August 17, 1984  
Appeal No.: 02153  
S. S. No.:

Claimant Bernadine E. Ennis

Employer: Ramada Hotel

LO. No: 4

Appellant CLAIMANT

ATTN: JoAnn Surber,  
Executive Housekeeper

**Issue** - Whether the Claimant failed, without good cause, to file a timely and valid appeal within the meaning of § 7(c)(ii) of the Law; whether the Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of § 6(a) of the Law; and whether the Claimant was able to work, available for work, and actively seeking work, within the meaning of § 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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON September 16, 1984

**- APPEARANCES -**

**FOR THE CLAIMANT**

Bernadine E. Ennis - Claimant  
Melinda Verduci - Legal Aid

**FOR THE EMPLOYER:**

JoAnn Surber -  
Executive House-  
keeper

**EVIDENCE CONSIDERED**

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced into this case, as well as Department of Employment and Training's documents in the appeal file.

FINDINGS OF FACT

The Claimant was employed as a maid by the Ramada Hotel in Rockville, Maryland from March 14, 1982 until on or about November 9, 1982, when she went on a three month maternity leave.

The Claimant's baby was born on December 13, 1982. Sometime in February 1983, the Claimant contacted the employer about returning to work. At that time she did not yet have a medical release from her physician and the employer was experiencing a seasonal slowdown in business. Nevertheless, the employer told the Claimant that as soon as she obtained a medical release, she could return to work, on a part-time schedule in February (since all the maids were on a part-time schedule then) and then full-time beginning around the middle of March. The Claimant agreed to return to work in March when she expected to be released by her doctor.

The Claimant called the employer again in the middle of March and was placed on the employer's regular work schedule beginning April 1, 1983. However, the Claimant contacted the employer and informed her supervisor that she had changed her mind and she would not be returning to work, because she had moved approximately 37 miles from the employer's premises and did not want to commute that distance; in addition, her car had broken down.

Sometime between March, 1983 and June, 1983, the Claimant applied for and received AFDC benefits from the Maryland Department of Social Services. In June, 1983, at the specific request of that agency, she filed a claim for unemployment insurance benefits with the Employment Security Administration. The Claimant was sent and received a notice, dated June 7, 1983 informing her that she had been denied unemployment insurance benefits and she was notified that she had until June 22, 1983 to appeal that decision. However, the Claimant made no appeal at that time. She continued receiving AFDC until approximately November of 1983. Then, for the first time, she was informed by the Department of Social Services she could not receive AFDC because of her disqualification for unemployment insurance benefits by the Employment Security Administration. This occurred shortly after the Claimant had moved again and her AFDC case was transferred to Washington County.

As a result of her AFDC cut-off, the Claimant filed a late appeal to the decision of the Claims Examiner denying her unemployment insurance benefits, on January 31, 1984.

CONCLUSIONS OF LAW

(1) § 7(c) (ii)

The question to be decided is whether the failure of the agency ( then, the Employment Security Administration) to notify the Claimant that her disqualification for unemployment insurance benefits would also result in her disqualification for AFDC benefits constitutes good cause for filing a late appeal, within the meaning of § 7(c) (ii) of the Law. In reaching a decision on this issue, the Board takes judicial notice that at the time of the Claimant's disqualification for unemployment insurance, the Employment Security Administration and the Department of Social Services were both part of the same state agency, the Department of Human Resources. (The unemployment insurance program is now administered under a separate department, the Department of Employment and Training, created by the legislature, effective October 1, 1983.)

The Claimant argued that this failure of notice violated her right to due process and cited several cases, most notably Finberg v. Sullivan, 634 2d. 50 (3rd Circuit, October 27, 1980). In that case the Court found that the failure of the Pennsylvania Court's notice of garnishment to inform the judgement debtor of certain exemptions that might apply to her property, and in particular the exemption for social security benefits, which constituted her sole source of income, was a violation of due process. The factors that the Court cited were the "serious, undue hardship" which the lack of information could cause the debtor and the relative lack of any "great burden on the state" to convey this information in its notice. Finberg, v. Sullivan supra, at 62.

The Board of Appeals concludes that it would certainly be an undue burden on the agency to require that a notice denying unemployment insurance benefits include a statement of every possible effect of that denial on other benefits, entitlements, etc., that a Claimant might apply for, now or in the future. However, keeping in mind the factors looked at by the Court in Finberg, and considering that at the time of the Claimant's receipt of the notice disqualifying her from unemployment insurance benefits, both AFDC benefits and unemployment insurance benefits were under the jurisdiction of the same Maryland agency, the Department of Human Resources, and considering that the Department of Social Service instructed her to apply for unemployment insurance, but neither the Employment Security Administration nor Department of Social Services informed her of all the consequences thereof, the Board concludes that in the particular circumstance of this case, the Claimant had good cause to file a late appeal within the meaning of § 7(c) (ii) of the Law.

(2). § 6(a)

The Board concludes that the Claimant voluntarily quit her job, without good cause or valid circumstances, within the meaning of § 6(a) of the Law, on April 1, 1983. The Claimant quit because she had moved approximately 37 miles away and was having transportation problems. However, she made no effort to resolve these problems in order to keep her job and apparently no longer wanted to work for the employer. The Board does not find the distance of 37 miles too burdensome, especially in view of the fact that the Claimant voluntarily moved away. The employer made every reasonable effort to accommodate the Claimant, but she did not want to work there. Therefore the maximum disqualification is warranted.

(3) § 4(c)

The Claims Examiner and the Appeals Referee disqualified the Claimant under § 4(c) indefinitely, beginning November 7, 1982. However, there is insufficient evidence that the Claimant was not meeting the requirements of § 4(c) , after June, 1983, when she filed for benefits. Therefore, the Board concludes that the Claimant was able, available and actively seeking work within the meaning of § 4(c) after June 1, 1983.

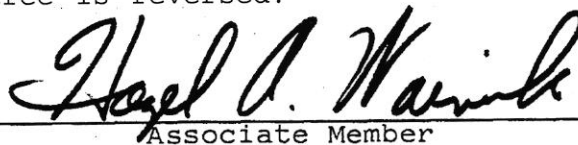
DECISION

The Claimant had good cause to file a timely and valid appeal within the meaning of § 7(c) (ii) of the Maryland Unemployment Insurance Law.

The Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of § 6(a) of the Maryland Unemployment Insurance Law. She is disqualified from receiving benefits from the week beginning April 1, 1983 and until she becomes re-employed, earns at least ten times her weekly benefit amount and thereafter becomes unemployed through no fault of her own.

The Claimant was able, available and actively seeking work, after June 1, 1983, within the meaning of § 4(c) of the Maryland Unemployment Insurance Law. She is eligible for benefits from June 1, 1983 and thereafter.

The decision of the Appeals Referee is reversed.

  
Associate Member

  
Associate Member

  
Chairman

W:D:K  
dp

DATE OF HEARING: July 3, 1984

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Legal Aid Bureau, Inc.

ATTN: Melinda Verduci

UNEMPLOYMENT INSURANCE - FREDERICK



STATE OF MARYLAND  
 HARRY HUGHES  
 Governor  
 KALMAN R. HETTMAN  
 Secretary

DEPARTMENT OF HUMAN RESOURCES  
 EMPLOYMENT SECURITY ADMINISTRATION  
 1100 NORTH EUTAW STREET  
 BALTIMORE, MARYLAND 21201  
 383-8640

BOARD OF APPEALS  
 THOMAS W. KEECH  
 Chairman  
 MAURICE E. DILL  
 HAZEL A. WARNICK  
 Associate Members  
 SEVERN E. LANIER  
 Appeals Counsel  
 MARK R. WOLF  
 Administrative  
 Hearings Examiner

- DECISION -

DATE: April 30, 1984

APPEAL NO.: 02153

S.S.NO.:

L.O.NO.: 5

APPELLANT: Claimant

CLAIMANT: Bernadine E. Ennis

EMPLOYER: Ramada Hotel

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.

Whether the appealing party filed a timely appeal or had good cause for an appeal filed late within the meaning of Section 7 (c) (ii) 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 Employment SECURITY OFFICE, 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 May 15, 1984

-APPEARANCES -

FOR THE CLAIMANT:

Present - Represented by Melinda Verducci, Legal Aid Bureau, Incorporated

FOR THE EMPLOYER:

Represented by John Surber, Executive Housekeeper

FINDINGS OF FACT

The claimant was denied benefits by the Claims Examiner on the ground that she was not able, available and not actively seeking work within the meaning of Section 4 (c) of the Maryland Unemployment Insurance Law. A notification of this disqualification was mailed to the claimant at her address of record on June 7, 1983. This notice informed the claimant that she had until June 22, 1983 within which to file an appeal. The claimant

signified her intention of filing an appeal by Request for Appeal card dated January 31, 1984.

There was no error on the part of the Department of Employment and Training in the matter of proper notice to the claimant of the disqualification in question.

There were no valid reasons given why the claimant did not file a timely appeal.

CONCLUSIONS OF LAW

The Maryland Unemployment Insurance Law, Section 7 (c)(ii), provides that:

"A determination shall be deemed final unless a party entitled to notice thereof files an appeal within 15 days after the notice was mailed to his last known address, or otherwise delivered to him; provided, that such period may be extended by the Board of Appeals for good cause."

There are no valid circumstances for the Appeals Referee to extend the time to appeal.

DECISION

The claimant filed an untimely appeal.

The claimant was not able, available and not actively seeking work within the meaning of Section 4 (c) of the Law. The disqualification imposed from November 7, 1982 and until the claimant is meeting the eligibility requirements of Section 4(c) without restrictions, remains in effect.

  
John G. Hennegan  
APPEALS REFEREE

Date of Hearing - 3/22/84  
cd/8565  
(2175/Lucas)

COPIES MAILED TO:

Claimant  
Employer  
Unemployment Insurance - Frederick  
  
Legal Aid Bureau, Incorporated  
ATTN: Madelene Verdurie