



# 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.:	95-BH-90
	Date:	January 31, 1990
Claimant: Shawn J. Clasing	Appeal No.:	8912306
	S. S. No.:	
Employer:	L O. No.:	40
	Appellant:	CLAIMANT
Issue:	Whether the claimant was able, available and actively seeking work, within the meaning of Section 4(c) of the law. Whether; the claimant failed, without good cause, to file a timely and valid appeal within the meaning of Section 7(c)(3) of the law.	

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—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.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

March 2, 1990

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— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Shawn J. Clasing - Claimant

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT  
John T. McGucken - Legal Counsel

#### EVALUATION OF EVIDENCE

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 in this case, as well as the Department of Economic and Employment Development's documents in the appeal file.

#### FINDINGS OF FACT

As to the issue of whether or not 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 Maryland Unemployment Insurance Law, the Board makes the following findings of fact. The benefit determination which was mailed to the claimant informing him of his disqualification from the receipt of unemployment insurance benefits established an appeal deadline of September 29, 1989. The claimant had intended to file his appeal in person at his local office on the 29th of September. On the evening of September 28th the claimant was called back to work and required to report by 7:00 a.m. on the morning of September 29th. The claimant decided it was better for him to return to work, than to not show up and therefore risk further unemployment, rather than personally appear at the local unemployment office on the 29th to file his appeal. Two days later, October 2, 1989, the claimant was able to get time off from work and did, in fact, go to the Eastpoint Office and file his appeal.

As to the issue of whether or not the claimant was able, available and actively seeking work within the meaning of Section 4(c) of the Law, the Board makes the following findings of fact. The claimant had been attending school on Wednesdays from 7:00 p.m. to 9:00 p.m. The claimant had been involved in this program throughout the time that he was employed by the employer and continued to attend these classes even after he had been laid off. The two hours a week that the claimant attended these classes did not interfere with his availability or his seeking of employment.

#### CONCLUSIONS OF LAW

The claimant filed an untimely appeal, with good cause, within the meaning of Section 7(c)(3) of the law. The claimant was called back to work on the last date to file his appeal and did not wish to risk further unemployment by not reporting to work.

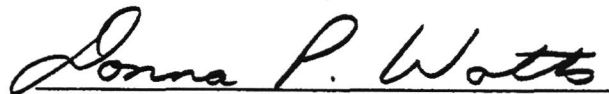
The claimant was able, available and actively seeking work within the meaning of Section 4(c) of the Law. The claimant's attendance two hours a week in an educational program did not interfere with his ability to work or his work search.

DECISION

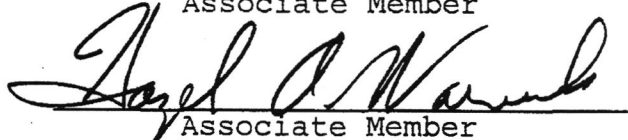
The claimant filed an untimely appeal, with good cause, within the meaning of Section 7(c)(3) of the Maryland Unemployment Insurance Law.

The claimant was able to work, available for work and actively seeking work within the meaning of Section 4(c) of the Law. No disqualification shall be imposed against the claimant under Section 4(c) of the Law from the week beginning August 27, 1989. The claimant may contact his local office to determine whether or not he meets the other requirements of the law.

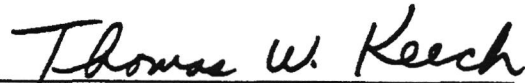
The decision of the Hearing Examiner is reversed.



Associate Member



Associate Member



Chairman

D:H:K

kmb

DATE OF HEARING: January 9, 1990

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - EASTPOINT

John T. McGucken - Legal Counsel

 **Maryland**  
Department of Economic &  
Employment Development

*William Donald Schaefer, Governor*  
*J. Randall Evans, Secretary*

*William R. Merriman, Chief Hearing Examiner*  
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*1100 North Eutaw Street*  
*Baltimore, Maryland 21201*

*Telephone: 333-5040*

**- D E C I S I O N -**

Date: Mailed: November 1, 1989  
Claimant: Shawn J. Clasing Appeal No.: 8912306  
S. S. No.:  
Employer: LO. No.: 40  
Appellant: Claimant

Issue: Whether the claimant was able, available 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)(3) of the Law.

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**- 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

~~November 16, 1989~~

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**- A P P E A R A N C E S -**

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Shawn J. Clasing - Claimant

**FINDINGS OF FACT**

The claimant was disqualified by a Claims Examiner from receiving unemployment insurance benefits under Section 4(c) of the Law. The disqualification began on August 27, 1989 and ran until he

met the requirements of the Law. The benefit determination which informed him of this result established an appeal deadline of September 29, 1989. The claimant did not file his appeal until October 2, 1989. The claimant offers as a reason for failing to file a timely appeal that he was called back to work and did not decide to file--the appeal until the bills had piled up and decided he needed money, so he talked to his business agent and after that came in and filed a late appeal.

The claimant is attending school two hours an evening on Wednesday at the union hall from 7 p.m. to 9 p.m. He has been doing this throughout the time that he has been employed by his employer and continued it when he was in layoff status. Attendance at that training session did not interfere with his availability for work.

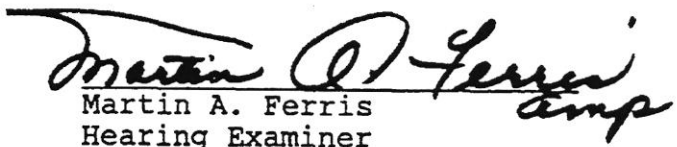
#### CONCLUSIONS OF LAW

The claimant failed to file a timely appeal, without good cause, within the meaning of Section 7(c)(3) of the Law. The claimant made a conscious decision not to file an appeal because he had returned to work. It was only after financial pressures came upon him and a discussion with his business agent of his union that he decided to come in and file his late appeal. He has not met the burden of establishing good cause for filing a late appeal, and the determination of the Claims Examiner under Section 4(c) of the Law must be allowed to stand.

#### DECISION

The claimant failed to file a timely appeal, without good cause, within the meaning of Section 7(c)(3) of the Maryland Unemployment Insurance Law.

The disqualification imposed by the Claims Examiner under Section 4(c) of the Law for the week beginning August 27, 1989 and until the claimant meets the requirements of the Law, remains in full force and effect.

  
Martin A. Ferris  
Hearing Examiner

8912306

Date of hearing: 10/24/89  
amp/Specialist ID: 40305  
Cassette No. 8762  
Copies mailed on November 1, 1989 to:

Claimant  
Unemployment insurance - Eastpoint (MABS)