



# 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.:	1089-BH-89	
	Date:	Dec. 15, 1989	
Claimant:	Bonnie DiBartolomeo	Appeal No.:	8909337
		S. S. No.:	
Employer:	Yaffe & Co. of Balto. Inc.	L.O. No.:	40
		Appellant:	CLAIMANT

Issue:

Whether the claimant left work voluntarily, without good cause, within the meaning of Section 6(a) of the law; whether the claimant filed a valid and timely appeal, 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 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.

January 14, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

---

**— APPEARANCES —**

FOR THE CLAIMANT:

Bonnie DiBartolomeo, Claimant  
Raymond Sheely, Witness

John T. McGucken, Legal Counsel, D.E.E.D.

FOR THE EMPLOYER:

Employer not present

## 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. Although the claimant's version of events leading to her filing of a late appeal was not without doubt, the Board has taken into consideration the statute's requirements that the Board reach the merits if at all possible, and has given the claimant the benefit of the doubt on this issue.

The claimant was represented by a consultant, Mr. Raymond Sheely, at the hearing. The claimant and the consultant are reminded that no fee may be charged for such services under Article 95A, Section 16(b).

## FINDINGS OF FACT

The claimant was issued a determination denying her benefits from the week beginning December 18, 1988 and until she became re-employed and earned \$2,050. The last day to file an appeal of this determination was July 7, 1989. The claimant received this determination simultaneously with two other determinations whose last date to appeal was also July 7, 1989. The claimant visited the Bel Air office of the Unemployment Insurance Administration for the purpose of straightening out all these matters. She was under the impression that all three determinations would be dealt with in the interview. She was also under the impression that all three had been dealt with and that she had been given an appeal meeting for the following week. In fact, the meeting scheduled for the following week had to do with one of the other determinations. Eventually, the claimant pursued her questions about this particular determination and was told that it was final and that she could no longer appeal it. Apparently, she asked this question after the last date to appeal had passed. Eventually, the claimant visited another local office and was permitted to file a late appeal in August of 1989.

The claimant obtained work in September of 1988 for Yaffe & Company of Baltimore, Inc. She worked as a secretary, paid at an hourly rate of \$8.77. Her last day of work was December 22, 1988.

When the claimant was first hired, she explained to the interviewer that she lived quite a distance from the work site and had other obligations in the early morning. An arrangement was made by which the claimant would be allowed to work

flex time. The claimant was thus allowed to arrive at work any time from 9:00 to 9:45 a.m. and to work seven and one-half to eight hours per day, as long as the time did not go past 6:00 p.m.

At about the beginning of December, however, the employer informed the claimant that this arrangement was being changed and that she would have to report for work promptly at 8:30 a.m. every morning. The claimant complained that this was impossible and was in violation of her agreement at the time she was hired. She was told that if she did not work these hours she would be discharged, but that she would be allowed to resign in lieu of termination. The claimant gave three weeks' notice of her resignation on the following day, and she worked the notice period.

#### CONCLUSIONS OF LAW

The Board concludes that the claimant had good cause for failing to file a timely appeal within the meaning of Section 7(c)(3) of the Maryland Unemployment Insurance Law. She took all of her determinations to her local office with the intention of having them taken care of prior to the last date to appeal. She thought that this determination was being appealed. Later, upon realizing that she had not filed an appeal to this particular determination, she filed an appeal in the other local office. The Board concludes that the claimant made a good faith effort to appeal her case prior to the last date to appeal by bringing in the determination to the local office. Her failure to perfect an appeal at that time was due to some type of miscommunication. The Board concludes that these factors establish good cause for filing the appeal late.

On the merits, the Board concludes that the claimant did voluntarily quit her job. When the employer made substantial changes in her job requirements, the claimant, recognizing that she could not comply with these changes, voluntarily submitted her resignation. This is considered voluntary, even though the claimant would probably have been fired in the future for her inability to comply with the employer's requirements.

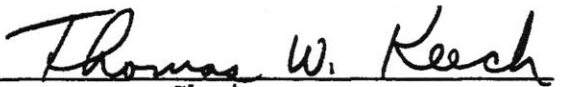
The Board concludes, however, that the claimant had good cause for voluntarily leaving her employment. The employer's change of hours violated a substantial part of the employment arrangement, a part which the claimant relied on in arranging her personal and work life. The claimant had reached agreement with the employer prior to hiring on her flex time hours, and the revocation of these hours in these circumstances was clearly a significant and detrimental change in the contract of employment on the part of the employer. This constitutes good cause for leaving within the meaning of Section 6(a) of the law.

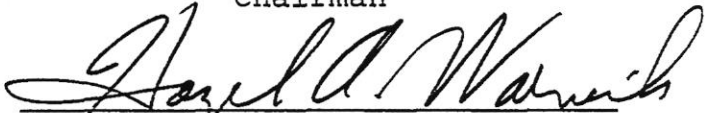
DECISION

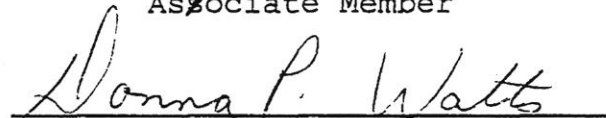
The claimant filed a late appeal, but for good cause within the meaning of Section 7(c)(3).

The claimant voluntarily left her employment, but for good cause, within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. No disqualification is imposed based upon her separation from Yaffe & Company of Baltimore, Inc. The claimant may contact her local office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.

  
Chairman

  
Associate Member

  
Associate Member

K:W:W

kbm

Date of Hearing: November 7, 1989

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT

John T. McGucken, Legal Counsel, D.E.E.D.

 **Maryland**  
Department of Economic &  
Employment Development

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

1100 North Eutaw Street  
Baltimore, Maryland  
21201

(301) 333-5040

**- DECISION -**

Claimant: Bonnie S. Dibartolomeo . Date: Mailed: August 30, 1980  
Appeal No.: 8909337  
S.S. No. \_\_\_\_\_  
Employer: Yaffe & Co of Baltimore, Inc. L.O. No.: 40  
Appellant: Claimant

Issue: Whether the unemployment of the claimant was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) 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 ANY EMPLOYMENT SECURITY OFFICE OR WITH THE APPEALS DIVISION. ROOM 515, 1100 NORTH EUTAW STREET BALTIMORE MARYLAND 21201. EITHER IN PERSON OR BY MAIL

September 14, 1989

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

---

**— APPEARANCES -**

FOR THE CLAIMANT:

Bonnie S. Dibartolomeo - Claimant

FOR THE EMPLOYER:

Not Represented

**FINDINGS OF FACT**

The claimant filed her original claim in the EastPoint local office with an effective date of June 4, 1989. Her weekly benefit was determined to be \$205.

A Benefit Determination mailed to the parties provided that the last date to file a timely appeal was July 7, 1989.

In this case, the claimant's appeal was received in the Eastpoint local office on July 31, 1989.

The appellant offered as a reason for her late appeal that she did not read the section marked Appeal Rights on the non-monetary determination that she had received from the Eastpoint local office.

Although the claimant received the Agency's non-monetary determination and read the top portion of it, she did not read far enough on the non-monetary determination to notice the section marked Appeal Rights. At the time she received the Agency document, she was filing claims in the Bel Air local office. After calling the Bel Air local office and speaking to an Agency representative, on or about July 9, 1989, she understood that she had to file an appeal in her case.

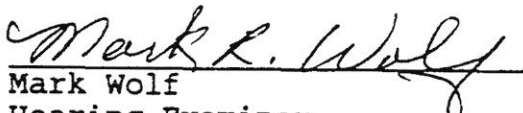
#### CONCLUSIONS OF LAW

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.

  
 Mark Wolf  
 Hearing Examiner

Date of Hearing: August 24, 1989  
 bch/Specialist ID: 22144  
 Cassette No: 6755  
 Copies mailed on August 30, 1989 to:

Claimant  
 Employer  
 Unemployment Insurance - Eastpoint (MABS)