

 **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.:	123-BR-91
	Date:	January 31, 1991
Claimant: Robert Bressler	Appeal No.:	9013563
	S. S. No.:	
Employer: Maryland Metal Moulding CO.	L O. No.:	9
	Appellant:	CLAIMANT

Issue:

Whether the claimant is receiving or has received a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment which is based on any previous work of such individual, which is equal to or in excess of his weekly benefit amount, within the meaning of Section 6(g) 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.

March 2, 1991

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.

The claimant was scheduled to received a lump sum pension in the amount of \$282,105.00 on or about November 30, 1990. This was due to the total dissolution of the pension plan by the employer, which the employer initiated on November 30, 1989. It takes approximately one year for this process to be completed. All employees were to receive a lump sum distribution.

On or about January 9, 1990, the employer also informed all its employees that it would be permanently ceasing operation, effective September 28, 1990.

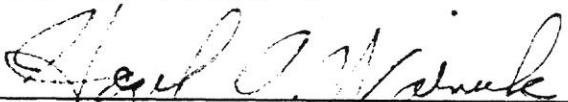
The Board infers from these facts, that the employer's dissolution of the pension plan was done in contemplation of the closing of its business. The employer knew that it would take approximately one year for this process to be completed.

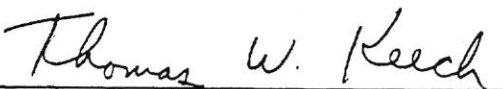
Under Section 6(g) (3) (ii), a lump sum payment of a pension, paid due to a lay off or shutdown of operations, shall not be deductible from unemployment insurance benefits. Applying that Section of the law to the facts here, the claimant's lump sum pension is not deductible from his unemployment insurance benefits.

DECISION

The claimant is in receipt of a lump sum pension which is not deductible from his unemployment insurance benefits within the meaning of Section 6(g) 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

Robert Jay Kessler, Esq.
19 East Fayette St., Suite 300
Baltimore, MD 21202

UNEMPLOYMENT INSURANCE - TOWSON



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

— D E C I S I O N —

Claimant:	Robert Bressler	Date:	Mailed: 11/9/90
		Appeal No.:	9013563
		S. S. No.:	
Employer:	Maryland Metal Moulding Co.	L.O. No.:	09
		Appellant:	Claimant

Issue: Whether the claimant is receiving or has received a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment which is based on any previous work of such individual, which is equal to or in excess of his/her weekly benefit amount, within the meaning of Section 6(g) of the Law.

— NOTICE OF RIGHT OF APPEAL TO COURT —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL 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. November 26, 1990

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON

— A P P E A R A N C E S —

FOR THE CLAIMANT: Claimant-Present

FOR THE EMPLOYER: Represented by:
 Robert Jay Kessler,
 Esq.
 David Blecman-Former
 V-P; Joan Blecman-
 Secretary Treasurer

FINDINGS OF FACT

The claimant quit his job with this employer on September 5, 1990 after 30 years of employment. (See appeal number 9013562 for separation issue.) The claimant will receive a lump sum, non-contributory pension on or about November 30, 1990 in-excess of \$28,000. His rate of pay at the time of his resignation was \$560.00 per week.

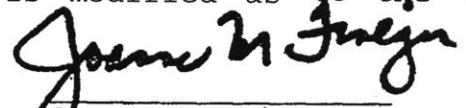
CONCLUSIONS OF LAW

Article 95A, Section 6(g) provides that an individual shall be disqualified for benefits for any week with respect to which the individual is receiving or has received pension or retirement pay in excess of his weekly benefit amount. A lump sum payment of a pension shall be allocated to a number weeks following the date of separation according to the number of weeks of pay received at the individual's last pay rate. It is concluded that the claimant's expected receipt of a sum certain within three months of his resignation does disqualify the claimant from receipt of unemployment benefits, such payment to be allocated to 503 weeks at \$560.00 per week.

DECISION

It is held that benefits should be reduced on account of the receipt of a pension under Section 6(g) of the Law. Benefits are denied for the week beginning September 2, 1990 and the 502 week immediately following.

The determination of the Claims Examiner is modified as to the beginning and ending dates of the penalty.


 Joanne M. Finegan
 Hearing Examiner

Date of Hearing: 11/2/90
 cc/Specialist ID: 09657
 Cassette No: 8746
 Copies mailed on 11/9/90 to:

Claimant
 Employer
 Unemployment Insurance - Towson (MABS)

Robert Jay Kessler, Esq.