



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032

—DECISION—

BOARD OF APPEALS
THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

STATE OF MARYLAND
HARRY HUGHES
Governor

	DECISION NO.:	2150-BH-83
	DATE:	December 8, 1983
CLAIMANT:	Michael C. Jancewski	APPEAL NO.: 04929
	S.S.NO.:	
—	Bethlehem Steel Corporation	40
EMPLOYER:	LO. NO.:	EMPLOYER
	APPELLANT:	

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 § 6(g) of the Maryland Unemployment Insurance Law; and whether the Claimant is receiving or has received ~~dismissal payments or wages in lieu of notice~~ within the meaning of § 6(h) of the Maryland Unemployment Insurance

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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT January 7, 1984

—APPEARANCE—

FOR THE CLAIMANT:

Michael C. Jancewski - Claimant

FOR THE EMPLOYER:

Joseph Krysiak -
Chief of Cost
Accounting

EVALUATION OF THE 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 into this case, as well as Employment Security Administration's documents in the appeal file.

FINDINGS OF FACT

The Claimant was employed for almost 42 years for the Bethlehem Steel Corporation. His last day of work was December 28, 1982. His weekly salary was \$400.00 at the time of his termination. The plant at which he worked shut down operations permanently on December 31, 1982. The Claimant filed a claim for benefits effective the next Monday, January 3, 1983.

The Claimant received a special retirement pay of \$6,568.94 on March 15, 1983. This special retirement pay is an increased pension. This pay is part of the regular pension plan negotiated between the union and the company. Only those persons eligible for a pension are entitled to this special retirement pay. The payment of this special retirement pay is in no way related to the fact that the plant closed down.

The Claimant received a regular pension from the company effective May 1, 1983 in the amount of \$919.36 per month. Neither the regular pension which began on May 1, nor the special retirement pay which was paid on March 15, were contributory pensions, that is, the Claimant contributed no part of the assets from which these pensions were paid.

The Claimant also received a Social Security pension in the amount of \$610.00 per month throughout his claim period.

CONCLUSIONS OF LAW

The Board concludes that the Claimant's special retirement pay was not dismissal payment or wages in lieu of notice within the meaning of § 6(h) of the Law. This payment was part of the regular pension plan and had nothing to do with the plant closing. It was paid, not to all severed employees, but only to those employees who qualified for and applied for a regular pension. In effect, this payment is only the payment of the regular pension at a slightly higher rate for the first few months that a person is retired. This special retirement pay therefore, is deductible from the Claimant's benefits as a lump sum pension under § 6(g) (3)(ii) of Law.

The Claimant's regular pension amount of \$919.36 per month is directly deductible from any benefits received because it is a non-contributory pension.

The Claimant's Social Security amount of \$610.00 per month is deductible from any benefits the Claimant is otherwise eligible for at a 50% rate because this a pension to which the Claimant has contributed.

Applying the deductions stated above, the Claimant's special retirement pay of \$6,568.94 should be divided by the Claimant's weekly salary of \$400.00. This gives a quotient of 16.42 weeks to which this lump sum pension is allocable within the meaning of § 6(g) (3)(ii). Since the Claimant was already unemployed through much of the week ending January 1, 1983, the Board will apply the special retirement pay to the 16 weeks immediately following. The Claimant is thus ineligible for benefits for the 16 weeks ending April 23, 1983 on account of receipt of the special retirement pay.

During the 17th week, the week ending April 30, 1983, the special retirement pay does not affect the Claimant's weekly benefit amount. During that week, however, the Claimant's Social Security amount of \$610.00 per month (\$141.86 per week) should result in a \$70.00 deduction from his weekly benefit amount. Since his weekly benefit amount is \$153.00, his correct monetary unemployment insurance benefit amount for that one week is \$83.00.

For the week ending May 7, 1983 and for the following weeks, the Claimant is not eligible for any benefits because his regular pension of \$919.36 per month would be deducted from any benefits otherwise due. This amounts to a deduction of \$229.84 from the weekly benefit amount. Since this amount is much higher than the weekly benefit amount, the Claimant is eligible for no benefits for the week ending May 7, 1983 and any following weeks as long as (1) he receives the pension in this amount and (2) the Bethlehem Steel Corporation is a base period employer.

DECISION

The Claimant was not eligible for any benefits from the week beginning January 3, 1983 until the week ending April 23, 1983. The Claimant was eligible for a weekly benefit amount of \$83.00 for the week ending May 30, 1983, (Of course, the Claimant is actually eligible for this \$83.00 only if he has complied with all of the other eligibility requirements of the Law. These requirements were not at issue in this particular case.) The Claimant is eligible for no benefits for the week ending May 7, 1983 and until his pension is no longer received in the amount of \$919.36 or until the Bethlehem Steel Corporation is no longer his base period employer.

The decision of the Appeals Referee is reversed.

Thomas W. Keech
Chairman

Joel A. Merrill
Associate Member

Margaret E. Hill
Associate Member

K:W:D

dp

DATE OF HEARING: September 13, 1983

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