

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

BOARD OF APPEALS

Thomas W. Keech
Chairman

Hazel A. Warnick
Associate Member

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033



William Donald Schaefer, Governor
J Randall Evans, Secretary

Decision No.: 879 - BR - 87

Date: Dec. 11, 1987

Claimant: Leonard Chew

Appeal No.: 8709104

S. S. No.:

Employer:

L.O. No.: 8

Appellant: CLAIMANT

Issue: Whether the claimant filed proper claims for benefits within the meaning of Section 4(b) 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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

January 10, 1988

— 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.

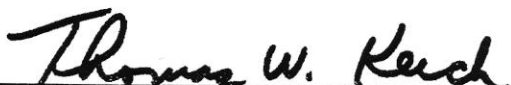
The Board adopts the findings of fact of the Hearing Examiner. Based upon the findings, the Board concludes that the claimant, by following exactly the directions given him by the local office, met all of the requirements of Section 4(b) of the law.

Although the regulations require the submission of claims by mail on a weekly basis, COMAR 24.02.02.03D(1) (a), the agency itself may waive or modify these requirements. (The agency, for example, routinely waives this requirement for its computerized claims, which are required to be submitted only on a biweekly basis.) Whenever a finding of fact is made that the agency modified a reporting requirement and that a claimant complied with that modified requirement, no disqualification is appropriate under Section 6 of the law. See the cases of Nelson (205-BH-82) and ROSS (1062-BH-82). In this case, since the findings of fact are made that the claimant was given specific instructions and that he followed those instructions, no penalty should be imposed.


DECISION

The claimant filed claims in accordance with agency instructions for the weeks ending May 23 and May 30, 1987. No disqualification is imposed based upon Section 4(b) of the law. The claimant should contact his local office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:W

kbm

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - ANNAPOLIS



DEPARTMENT OF EMPLOYMENT AND TRAINING

**STATE OF MARYLAND
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**STATE OF MARYLAND
William Donald Schaefer
Governor**

BOARD OF APPEALS

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Associate Members
SEVERN E. LANIER
Appeals Counsel
MARK R. WOLF
Chief Hearing Examiner**

-DECISION-

Claimant: Leonard M. Chew
Date Mailed: 10/13/87
Appeal No.: 8709104
S. S. No.:
Employer: L.O. No.: 08
Appellant: Claimant

Issue: Whether the claimant filed proper claims for benefits within the meaning of Section 4(b) of the Law. Whether the appeal was late under Section 7(c)(3) of the Law.

— NOTICE OF RIGHT OF FURTHER APPEAL —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL 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 **October 28, 1987**

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Present

Other: Nikki Gladding-
Unemployment Insurance
Supervisor

EVIDENCE PRESENTED

Agency records shows that the finality date for filing an appeal should have been September 3, 1987, based upon documentation involving the issue before me, as well as other issues raised. Accordingly, the claimant's appeal is timely.

The claimant appeared at the local office to file an additional claim on May 21, 1987. When being presented with claim forms for the weeks ending May 23 and May 30, 1987, and in response to the claimant's inquiry about benefits, the claims taker stated as she handed him the forms "just wait until you hear from Baltimore." Thereafter, the claim certifications for the weeks ending May 23 and May 30, 1987 were received by the local office on July 21, 1987. Subsequently, the claimant reported to the local office on August 5, 1987. Thereafter, he was disqualified.

FINDINGS OF FACT

The claimant filed an additional claim for unemployment insurance benefits at Annapolis on May 21, 1987. Upon being presented with claim certification forms for the weeks ending May 23 and May 30, 1987, he was told by the claims clerks just to wait until he hears from Baltimore. The claimant did not then immediately return the claim forms, which were later received by the local office on July 21, 1987.

CONCLUSIONS OF LAW

The claimant asserts that he was merely doing what he was told, which was to do nothing. However, I cannot accept this explanation in view of the fact that the claimant had originally filed claims since June 1, 1986 and understood that in order to be paid benefits, claims must be filed regularly. For reasons which the claimant cannot explain he was told to do nothing, the claim forms for the weeks ending May 23 and May 30, 1987 were received late on July 21, 1987. Accordingly, I have no alternative but to affirm the determination of the Claims Examiner for the failure of the claimant to properly file claims which were given to him in good faith to be filed at the appropriate time.

DECISION

It is held that the claimant failed to file proper claims for benefits within the meaning of Section 4(b) of the Maryland Unemployment Insurance Law pursuant to the provisions of Title 24

of the Code of Maryland Regulations. Benefits are denied from May 23, 1987 and until the claimant reported, reopened his claim and filed proper claims for benefits in accordance with said Regulations.

Robin L. Brodinsky
Robin L. Brodinsky
Hearing Examiner

Date of hearing: 9/30/87
Cassette: 6878
hf (Roberts)

Copies mailed on 10/13/87 to:

claimant
Unemployment Insurance - Annapolis- (MABS)